

APPENDIX D

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 Court File No. 2:17-cv-14148-DPH-SDD
5 - - - - -
6 LEAGUE OF WOMEN VOTERS
7 OF MICHIGAN, ROGER J. BRDAK,
8 JACK E. ELLIS, DONNA E. FARRIS,
9 WILLIAM "BILL" J. GRASHA,
10 ROSA L. HOLLIDAY, DIANA L.
11 KETOLA, JON "JACK" G. LASALLE,
12 Richard "DICK" W. LONG,
13 LORENZO RIVERA,
14 and RASHIDA H. TLAIB,
15
16 Plaintiffs,
17
18 v.
19
20 RUTH JOHNSON, in her official
21 capacity as Michigan
22 Secretary of State,
23
24 Defendant.
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29 - - - - -
30 DEPOSITION OF
31 JEFFREY TIMMER
32 VOLUME I
33 - - - - -
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36 Taken August 22, 2018 By Kelly A. Herrick
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Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 FAEGRE BAKER DANIELS</p> <p>4 300 N. Meridian Street</p> <p>5 Suite 2700</p> <p>6 Indianapolis, Indiana 46204-1750</p> <p>7 Phone: 317.237.0300</p> <p>8 Email: Kevin.toner@FaegreBD.com</p> <p>9 By: Kevin M. Toner</p> <p>10 For the Plaintiffs</p> <p>11</p> <p>12 GOODMAN ACKER</p> <p>13 17000 W. Ten Mile Rd.</p> <p>14 Second Floor</p> <p>15 Southfield, Michigan 48075</p> <p>16 Phone: 248.483.5000</p> <p>17 Email: Mbrewer@goodmanacker.com</p> <p>18</p> <p>19 By: Mark Brewer</p> <p>20 For the Plaintiffs</p> <p>21</p> <p>22 DICKINSON WRIGHT PLLC</p> <p>23 215 S. Washington Square</p> <p>24 Suite 200</p> <p>25 Lansing, Michigan 48933-1816</p> <p>Phone: 517.487.4710</p> <p>Email: Pellsworth@dickinsonwright.com</p> <p>Sknapp@dickinsonwright.com</p> <p>By: Peter H. Ellsworth</p> <p>Scott Knapp</p> <p>For the Secretary of State</p> <p>Also present: Deborah M. Barclay, Notary</p>	<p>1 THE DEPOSITION OF JEFFREY TIMMER is taken on</p> <p>2 this 22nd day of August, 2018, at Dickinson</p> <p>3 Wright, 215 S. Washington Square, Suite 200,</p> <p>4 Lansing, Michigan, commencing at 8:30 a.m.</p> <p>5 (Exhibit 142 was marked.)</p> <p>6 JEFFREY TIMMER,</p> <p>7 A witness in the above-entitled action,</p> <p>8 after having been first duly sworn,</p> <p>9 testifies and says as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. TONER:</p> <p>12 Q. Good morning. Would you state your full</p> <p>13 name, please.</p> <p>14 A. Jeffrey Allen Timmer.</p> <p>15 Q. Mr. Timmer, how old are you?</p> <p>16 A. 51.</p> <p>17 Q. And where is your current residence?</p> <p>18 A. In Portland, Michigan.</p> <p>19 Q. And where is your current office?</p> <p>20 A. In Lansing, Michigan.</p> <p>21 Q. Is this your first deposition?</p> <p>22 A. No.</p> <p>23 Q. How many have you given?</p> <p>24 A. One.</p> <p>25 Q. Can you tell me the circumstances of that?</p>
Page 3	Page 5
<p>1 I N D E X</p> <p>2 Examination by Mr. Toner, page 4</p> <p>3</p> <p>4</p> <p>5 INDEX OF EXHIBITS</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>NUMBER DESCRIPTION</p> <p>Exhibit 142 Expert Report, page 4</p>	<p>1 A. It was related to a campaign finance issue.</p> <p>2 Q. About when was that?</p> <p>3 A. After the 1998 election.</p> <p>4 Q. Was a trial -- did a trial occur in that</p> <p>5 matter?</p> <p>6 A. I don't recall.</p> <p>7 Q. Was there any hearing in that matter where</p> <p>8 you testified?</p> <p>9 A. No.</p> <p>10 Q. Have you ever testified at any trial?</p> <p>11 A. No.</p> <p>12 Q. You're probably familiar from that exercise,</p> <p>13 but let me just make sure we're on the same</p> <p>14 page in terms of general ground rules today.</p> <p>15 If at any time you might not hear one of my</p> <p>16 questions clearly, we can have that read</p> <p>17 back right away by the court reporter, okay?</p> <p>18 A. Um-hmm.</p> <p>19 Q. If at any time I garble something, use terms</p> <p>20 of art in your area that don't make sense,</p> <p>21 for any reason you don't understand one of</p> <p>22 my questions, will you tell me that?</p> <p>23 A. Yes.</p> <p>24 Q. And as you just reminded yourself, I think,</p> <p>25 the nods and the shakes of the head are very</p>

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 6

1 hard to show on the record, so we require a
2 yes or a no or a full answer to the
3 questions, okay?
4 **A. Yes.**
5 Q. So, if you answer one of my questions, the
6 judges in this case will assume that you
7 heard it, you understood it and you would
8 answer it the same way as if we were sitting
9 in the courthouse; is that okay?
10 **A. Yes.**
11 Q. If you ever want a break, please let me
12 know. We'll break for any reason at all.
13 I'll tell you right up, I'm going to need a
14 break about every hour or so thanks to my
15 blood pressure pill, but if you want a
16 break, just speak up, okay?
17 **A. Okay.**
18 Q. Are you on any medications or is there any
19 other thing going on with you that would
20 impair your ability to hear my questions and
21 provide truthful answers?
22 **A. No.**
23 Q. And have you ever been convicted of a crime?
24 **A. No.**
25 Q. What did you do to prepare for your

Page 7

1 testimony today?
2 **A. I read a lot of material.**
3 Q. Can you describe for me what material you're
4 talking about?
5 **A. I read the report that I did in June. I**
6 **read the 1982 correspondence involving the**
7 **court, Judge Levin, Bernie Apol,**
8 **Harold Hoag. I read emails that were sent**
9 **to me and by me.**
10 Q. Anything else that you recall?
11 **A. I read the statutes, the Michigan statutes**
12 **related to the legislative and congressional**
13 **redistricting. I looked at maps. I read**
14 **newspaper accounts of emails.**
15 Q. And did the newspaper accounts refresh your
16 recollection at all?
17 **A. I'm not sure I -- my recollection of what?**
18 Q. I'll back up. Why did you read newspaper
19 accounts?
20 **A. I Googled information about me to see what**
21 **was in the public realm and read them as a**
22 **result.**
23 Q. The other items that you reviewed, are they
24 all items that you selected on your own
25 accord and decided were worth your time

Page 8

1 prior to testifying?
2 THE WITNESS: I don't know if that
3 gets into conversations that we've had.
4 MR. ELLSWORTH: Would you --
5 MR. TONER: Sure, I'll rephrase.
6 I'd be happy to rephrase.
7 BY MR. TONER:
8 Q. Were some of the items you reviewed selected
9 and provided to you by attorneys?
10 **A. Yes.**
11 MR. ELLSWORTH: You can go ahead
12 and answer.
13 THE WITNESS: Yes.
14 BY MR. TONER:
15 Q. And were other items that you reviewed
16 selected on your own accord, for example,
17 newspaper accounts about yourself that you
18 Googled?
19 **A. Yes.**
20 Q. Can you give me a rough estimate of how much
21 is in the attorney stack and how much is in
22 the Jeff Timmer stack?
23 **A. Probably 90 attorney, 10 Timmer, because the**
24 **report, the statutes, the emails, they were**
25 **all part of the attorney consultation.**

Page 9

1 Q. Were the emails that you reviewed all items
2 that you had produced in connection with the
3 litigation?
4 **A. Were the --**
5 Q. The emails that you reviewed.
6 **A. That I had produced?**
7 Q. Yes.
8 **A. I don't know the answer to that.**
9 Q. One indicator of what's already been
10 produced in this case is what's known as a
11 Bates number, a small number at the bottom
12 of the page, and before you get out of here
13 today, you'll see many pieces of paper that
14 say "Timmer" followed by one to five digits.
15 Do you happen to recall whether the
16 emails that you were reviewing had Bates
17 numbers on them?
18 **A. Not that I recall.**
19 Q. Did you review emails that did not have your
20 name on them?
21 **A. I don't know.**
22 Q. You described some 1992 correspondence
23 between Mr. Apol and the Michigan Supreme
24 Court. Is that the same set of documents
25 that were attached to your Expert Report?

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 10

1 **A. Yes.**
2 Q. You didn't go out and do any additional
3 research to -- and didn't find any other
4 correspondence, did you?
5 **A. No.**
6 Q. Did you participate in any sessions with
7 lawyers to prepare for today?
8 **A. Yes.**
9 Q. How many?
10 **A. One.**
11 Q. How long was it?
12 MR. ELLSWORTH: You can answer.
13 THE WITNESS: Between three and a
14 half and four hours.
15 BY MR. TONER:
16 Q. Who participated?
17 **A. Mr. Ellsworth, Mr. Knapp, Mr. Stuckey, and**
18 **Mr. Shannon.**
19 Q. Thank you. Where did you go to college?
20 **A. Michigan State University.**
21 Q. What degree did you receive?
22 **A. Public -- a degree in public policy and**
23 **international relations.**
24 Q. Is that your major?
25 **A. James Madison College at Michigan State**

Page 11

1 **University.**
2 Q. I see. Thank you. When was that degree?
3 **A. 1989.**
4 Q. After 1989, did you do any graduate work?
5 **A. No.**
6 Q. Have you ever had any legal training?
7 **A. No.**
8 Q. You're not a lawyer, right?
9 **A. No.**
10 Q. Have you ever had any computer programming
11 training?
12 **A. No.**
13 Q. Are you able to -- what my son would call
14 code?
15 **A. No.**
16 Q. Can you tell me the highest level of
17 mathematics you studied in college?
18 **A. Yes. I did not study math in college.**
19 Q. Take any statistics classes?
20 **A. Yes.**
21 Q. More than one?
22 **A. No.**
23 Q. So, undergraduate statistics?
24 **A. Yes.**
25 Q. Have you done any postcollege coursework at

Page 12

1 all in statistics?
2 **A. No.**
3 Q. Any kind of mathematics?
4 **A. No.**
5 Q. Have you ever had training in Java?
6 **A. No.**
7 Q. Who is your current employer?
8 **A. Lambert, Edwards & Associates. The Sterling**
9 **Corporation is a division of**
10 **Lambert Edwards.**
11 Q. I take it it's not a separate subsidiary of
12 Lambert; is that right?
13 **A. Correct.**
14 Q. Has Sterling Corporation always been an a
15 division, or was it previously incorporated
16 as a separate entity?
17 **A. It was previously incorporated as a separate**
18 **entity.**
19 Q. Where was it incorporated?
20 **A. In Michigan.**
21 Q. Was that in 1999?
22 **A. I believe so.**
23 Q. And was the Sterling Corporation involved in
24 any way in the 2001 Michigan redistricting?
25 **A. Yes.**

Page 13

1 Q. How -- what was its role?
2 **A. I was involved.**
3 Q. And I take it the Sterling Corporation was
4 also involved in the 2011 Michigan
5 redistricting; is that correct?
6 **A. Yes.**
7 Q. Can you ballpark for me approximately how
8 much revenue Sterling Corporation earned in
9 connection with the 2001 redistricting?
10 **A. 2001?**
11 Q. Yes.
12 **A. I do not recall 2001.**
13 Q. Can you make any estimate at all?
14 **A. Estimate?**
15 Q. Yes.
16 **A. No, I'm not sure.**
17 Q. Do you recall what hourly rate was charged
18 for your work back in 2001?
19 **A. Not in 2001, I do not recall.**
20 Q. Do you recall about how many hours you put
21 in back in 2001?
22 **A. No, I do not. Not that I could answer.**
23 Q. Is it fair to say it was a substantial
24 amount of time?
25 **A. Yes.**

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 14

1 Q. And your employer was paid for your work; is
2 that right?
3 **A. Yes.**
4 Q. Let's talk about 2011, can you ballpark for
5 me how much revenue Lambert, Edwards &
6 Associates made in connection with
7 redistricting work in Michigan?
8 **A. Zero in 2011.**
9 Q. Is your answer different if I ask you about
10 Sterling Corporation, did it make revenue?
11 **A. Yes.**
12 Q. Okay. Fair enough. The 2011 Michigan
13 redistricting, about how much money did
14 Sterling Corporation make for your work and
15 the work of others at Sterling?
16 **A. \$150,000.**
17 Q. Do you recall what your hourly rate was for
18 that work?
19 **A. 200.**
20 Q. Who else at Sterling Corporation worked on
21 Michigan redistricting besides yourself?
22 **A. Worked on, please clarify.**
23 Q. Did work on behalf of Sterling Corporation
24 and was compensated for it.
25 **A. Steve Linder.**

Page 16

1 Q. Does Lambert Edwards have any affiliates
2 besides Sterling Corporation who are engaged
3 in issue advocacy, political consulting or
4 political fundraising?
5 **A. No.**
6 Q. Sterling Corporation provides consulting
7 services to what kind of organizations?
8 **A. Trade associations, candidate campaigns,**
9 **ballot question campaigns, corporations.**
10 Q. Sterling Corporation provides fundraising
11 work for what sort of individuals and
12 organizations?
13 **A. The same kind of clients.**
14 Q. Would it be fair to describe
15 Sterling Corporation as a Republican
16 political consulting firm?
17 **A. Yes.**
18 Q. Does Sterling Corporation ever use any
19 independent contractors as part of its work?
20 **A. I believe so.**
21 Q. From time to time, have you yourself engaged
22 contractors to collect data or organize
23 data?
24 **A. Yes.**
25 Q. Do you recall the contractors you worked

Page 15

1 Q. Anyone else?
2 **A. Not that I recall.**
3 Q. Do you recall what Mr. Linder's rate was in
4 2011 for that work?
5 **A. I recall he did not have an hourly rate. He**
6 **had had a monthly.**
7 Q. Did Mr. Linder prepare detailed reports
8 showing the time spent on redistricting?
9 **A. No.**
10 Q. In 2011?
11 **A. No.**
12 Q. Did you prepare such entries for your work?
13 **A. Possibly.**
14 Q. Can you describe for me what sort of
15 operations Lambert, Edwards & Associates
16 has, just generally.
17 **A. Public relations, public affairs, marketing,**
18 **branding.**
19 Q. In terms of the Sterling Corporation
20 division, is it fair to describe that as
21 political consulting and political
22 fundraising?
23 **A. In part.**
24 Q. What else would you include?
25 **A. Public affairs and issue advocacy.**

Page 17

1 with in 2011 on Michigan redistricting?
2 **A. Combat Data.**
3 Q. What sort of work does Combat Data do?
4 **A. Database lists.**
5 Q. Do they collect and organize election data?
6 **A. Yes.**
7 Q. Do you know of any other kinds of data they
8 collect and organize as part of their
9 business?
10 **A. Voter list data.**
11 Q. I'm going to hand you what was marked as
12 Exhibit 142.
13 **A. I would like to just mention I'm watching to**
14 **see if my kids text at all. It's the first**
15 **day of school and rides, so I'm just making**
16 **sure. So if I look at my phone, that's**
17 **what's going on.**
18 Q. Not a problem. We'll try and avoid
19 referring to it on the record. I'm totally
20 sympathetic. Hopefully my kid started his
21 last week at Purdue okay -- last first year
22 at Purdue okay. Those are not the kind of
23 texts I want to get.
24 Do you recognize Exhibit 142 as the
25 Expert Report you prepared?

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 18

1 **A. It appears to be.**
2 Q. All right. Let's start on page 4. At the
3 top, you'll see: Personal Background and
4 Qualifications.
5 **A. Um-hmm.**
6 Q. And is it still the case that your title at
7 Sterling Corporation is Senior Counselor?
8 **A. Yes.**
9 Q. Who do you report to?
10 **A. Mark Pischea.**
11 Q. Is he also employed at Sterling Corporation?
12 **A. Yes.**
13 Q. What's his title?
14 **A. Managing Director.**
15 Q. In the last sentence of that first
16 paragraph, you write: "I have worked for
17 both Republicans and Democrats while at
18 Sterling."
19 Can you tell me how much work you
20 did for Democrats during 2011.
21 **A. I did not work with Democrat candidates. I**
22 **worked with Democrat consultants in 2011 on**
23 **renewable energy issues.**
24 Q. Did you -- did Sterling Corporation bill for
25 your time to any Democrat organizations?

Page 20

1 **A. The 1998 election.**
2 Q. You say you were campaign consultant. Was
3 it for more than one campaign?
4 **A. Yes.**
5 Q. Were they all Republican campaigns?
6 **A. No.**
7 Q. What --
8 **A. Several have been ballot issue campaigns.**
9 Q. Were all the candidates Republicans?
10 **A. Yes.**
11 Q. In the next sentence, you say you served as
12 Executive Director of the Michigan
13 Republican Party. When was that?
14 **A. Beginning 2005.**
15 Q. How long did that last?
16 **A. Through 2009.**
17 Q. And in the last sentence there, which
18 governor appointed you to the Michigan Board
19 of State Canvassers?
20 **A. Governor Granholm.**
21 Q. Are you still on the Board?
22 **A. No.**
23 Q. When did that end?
24 **A. I'm not certain. I believe 2011 or 2012.**
25 **It's a matter of public record. I'm not**

Page 19

1 **A. No.**
2 Q. In the next paragraph, you write you were
3 hired by the Michigan Legislature in 1991 as
4 Special Assistant to the House Republican
5 Leader. Forgive me, I'm a Hoosier, but who
6 was that?
7 **A. Paul Hillemonds.**
8 Q. Then you go on to say you've worked in the
9 Michigan Senate as Deputy Communications
10 Director. About when was that?
11 **A. 1997 is when I would have begun there.**
12 Q. Who did you report to?
13 **A. Different people.**
14 Q. Can you give me more information about who
15 they were? Mostly their roles is who I'm
16 interested in.
17 **A. The Director of Communications, the Chief of**
18 **Staff to the Majority Leader, the Majority**
19 **Leader.**
20 Q. Did the Republicans control the Senate at
21 that time?
22 **A. Yes.**
23 Q. You then say you were Political Director for
24 the Senate Republican Campaign Committee.
25 When were you in that role?

Page 21

1 **sure.**
2 Q. Are you familiar with David Daley's book?
3 **A. Yes.**
4 Q. Is he accurate in describing an interview
5 that you gave to him? What I mean is, did
6 it actually occur?
7 **A. The interview occurred, yes.**
8 Q. All right. Have you had an opportunity
9 since the book was published to review the
10 chapter on Michigan?
11 **A. Yes.**
12 Q. Did you conclude that Mr. Daley quoted you
13 accurately in his book?
14 **A. I would have to know which quotes we're**
15 **talking about.**
16 Q. Well, do you recall when you read it that
17 some of the things he said about you were
18 inaccurate?
19 **A. I don't recall, but I would need to look at**
20 **specifics.**
21 Q. Well, I'll represent to you, on page 71, he
22 describes you as the man who drew the lines
23 for Michigan's 14th District.
24 Is that a fair characterization?
25 **A. The lines for the 14th Congressional**

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 22

1 **District?**
2 Q. Yes.
3 **A. Yes.**
4 Q. He's quite flattering in terms of the craft,
5 as he calls it, of drawing district lines,
6 and he says that you were directly
7 responsible in three different election
8 cycles; is that accurate?
9 **A. I was involved in redistricting in three**
10 **different redistricting cycles.**
11 Q. On page 72, Daley goes on to say as follows:
12 "Lansing might not be Oz, but Timmer is one
13 of Michigan's GOP wizards."
14 Do you agree with that
15 characterization?
16 MR. KNAPP: Can you break that down
17 into whether Lansing is Oz first?
18 BY MR. TONER:
19 Q. I promise not to refer to you as a wizard
20 throughout the day. My point is, is it fair
21 to say you've been heavily involved in the
22 redistricting process for multiple cycles?
23 **A. Yes.**
24 Q. Okay. Can you just in general terms compare
25 for me your role in the 2011 redistricting,

Page 24

1 co-authored any papers that were submitted
2 to academic journals?
3 **A. No.**
4 Q. Do you consider yourself an academic in any
5 sense?
6 **A. When it relates to the application of Apol**
7 **standards, I do.**
8 Q. Have you ever taught any courses concerning
9 that subject matter?
10 **A. No.**
11 Q. Have you ever been a guest speaker in any
12 college course?
13 **A. No -- a guest speaker in a college course?**
14 **Yes.**
15 Q. When was that?
16 **A. I do not recall specific dates.**
17 Q. Fair enough. Where was that?
18 **A. Michigan State University, University of**
19 **Michigan, I believe Lansing Community**
20 **College.**
21 Q. Was that prior to 2001 or after?
22 **A. After.**
23 Q. Was it prior to 2011 or after?
24 **A. Prior.**
25 Q. In between those two cycles --

Page 23

1 the most recent, to your role in 2001.
2 **A. They were very similar.**
3 Q. In both redistricting exercises, who were
4 you generally advising?
5 **A. The Speakers of the House, Senate Majority**
6 **Leaders, key staff.**
7 Q. Do you know Bob LaBrant?
8 **A. I've never heard -- yes, I have. No, I do**
9 **know Bob.**
10 Q. Right. Did you work with him in both of
11 those cycles, 2001 and 2011?
12 **A. Bob was involved in both of those cycles.**
13 Q. And you interacted with him?
14 **A. Yes, I interacted with Bob.**
15 Q. Back on your report, you say on page 4, that
16 you've never testified as an expert at trial
17 or at a deposition during the prior four
18 years.
19 Have you ever prepared any
20 Expert Report prior to this one, 142?
21 **A. No.**
22 Q. Have you ever had any work of yours
23 published in any academic journals?
24 **A. No.**
25 Q. Have you ever authored any papers that -- or

Page 25

1 **A. Yes.**
2 Q. You were a guest speaker in about three
3 classes, you think?
4 **A. Three classes on different occasions.**
5 Q. Do you recall the names of the courses?
6 **A. I do not.**
7 Q. Or the subject matter?
8 **A. Public policy, campaigns, public affairs.**
9 Q. I want to go back to explore a little more
10 of what happened in 2001 versus 2011.
11 You've already told me your role was
12 similar.
13 But let's get down into the weeds
14 just a little bit. Prior to 2001, did you
15 participate in any training or national
16 meetings concerning redistricting?
17 **A. Yes.**
18 Q. Describe those for me.
19 **A. Meetings would have involved the National**
20 **Conference of State Legislatures, the**
21 **redistricting task force and informational**
22 **meetings -- numerous informational meetings**
23 **regarding the subject matter of**
24 **redistricting.**
25 Q. Any other organizations who had

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

<p style="text-align: right;">Page 26</p> <p>1 get-togethers concerning redistricting prior</p> <p>2 to that 2001 redistricting that you</p> <p>3 attended?</p> <p>4 That's a garbled question. Does it</p> <p>5 make sense?</p> <p>6 A. Please clarify.</p> <p>7 Q. Fair enough. You described this National</p> <p>8 Council organization. Were there any other</p> <p>9 organizations who put on topics related to</p> <p>10 redistricting that you attended prior to</p> <p>11 2001?</p> <p>12 A. I don't recall.</p> <p>13 Q. Prior to 2011, did you participate in any</p> <p>14 national meetings concerning redistricting?</p> <p>15 A. Yes.</p> <p>16 Q. What were those?</p> <p>17 A. National Conference of State Legislatures.</p> <p>18 Q. Was that the meeting in Austin in late March</p> <p>19 of 2010?</p> <p>20 A. No.</p> <p>21 Q. Did you attend that meeting?</p> <p>22 A. No.</p> <p>23 Q. What meeting do you recall attending with</p> <p>24 the National Council?</p> <p>25 A. Providence, Rhode Island.</p>	<p style="text-align: right;">Page 28</p> <p>1 with it?</p> <p>2 A. Through the course of news related to the</p> <p>3 industry of politics and campaigns.</p> <p>4 Q. In the 2001 redistricting process, how would</p> <p>5 you generally describe the guidelines and</p> <p>6 standards that you tried to apply?</p> <p>7 A. Tried --</p> <p>8 Q. That you applied in your work?</p> <p>9 A. The Apol standards and the Voting Rights Act</p> <p>10 were the predominant standards, guidelines.</p> <p>11 Q. Is the same true for the 2011 redistricting</p> <p>12 process?</p> <p>13 A. Yes.</p> <p>14 Q. Did you apply any different standards in</p> <p>15 2011 that you recall?</p> <p>16 A. No.</p> <p>17 Q. What software products did you use to do</p> <p>18 your work in 2011?</p> <p>19 A. A product called Maptitude for</p> <p>20 redistricting.</p> <p>21 Q. And what product did you use in 2001, if</p> <p>22 any?</p> <p>23 A. I do not recall the name.</p> <p>24 Q. Do you think it was -- did Maptitude exist</p> <p>25 back then?</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. When did that take place?</p> <p>2 A. 2009 or 2010 is my recollection.</p> <p>3 Q. Did you participate in a Republican National</p> <p>4 Committee redistricting conference in</p> <p>5 Washington, D.C. in 2010?</p> <p>6 A. No.</p> <p>7 Q. Were you aware of a conference from</p> <p>8 April 29th to May 1st in Washington?</p> <p>9 A. I don't recall if I was aware or not.</p> <p>10 Q. Okay. You didn't attend in any event; is</p> <p>11 that right?</p> <p>12 A. I've attended Republican National Committee</p> <p>13 meetings. I don't recall one -- at that</p> <p>14 time, I don't recall one about</p> <p>15 redistricting.</p> <p>16 Q. Okay. Was there a redistricting conference</p> <p>17 in Washington, D.C. in late April/early May</p> <p>18 of 2010 to your recollection?</p> <p>19 A. I do not know.</p> <p>20 Q. Okay. Did you attend any conferences where</p> <p>21 Project REDMAP was discussed prior to 2011?</p> <p>22 A. No.</p> <p>23 Q. Are you familiar with Project REDMAP at all?</p> <p>24 A. I've become familiar with it.</p> <p>25 Q. In what connection have you become familiar</p>	<p style="text-align: right;">Page 29</p> <p>1 A. I don't know.</p> <p>2 Q. Did you use any other software other than</p> <p>3 Maptitude in 2011 to do redistricting work?</p> <p>4 A. Email software.</p> <p>5 Q. Fair enough. Excel?</p> <p>6 A. Yes, I would have used, I'm sure, various</p> <p>7 Microsoft Office-related products and</p> <p>8 probably -- well, I know pdf products, so</p> <p>9 Acrobat.</p> <p>10 Q. In terms of preparing draft district maps</p> <p>11 and applying population and election data,</p> <p>12 was Maptitude the software that you went to?</p> <p>13 A. Yes.</p> <p>14 Q. Was both population data and election data</p> <p>15 incorporated into your Maptitude software in</p> <p>16 2011?</p> <p>17 A. Yes.</p> <p>18 Q. In 2011, did you receive input from the</p> <p>19 Michigan Republican Party as you did your</p> <p>20 work?</p> <p>21 A. Clarify what you mean by "input."</p> <p>22 Q. Well, did you have interactions with party</p> <p>23 leaders as you carried out your work in</p> <p>24 2011?</p> <p>25 A. I guess, who would you describe -- who was a</p>

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

<p style="text-align: right;">Page 30</p> <p>1 party leader? Please clarify.</p> <p>2 Q. Do you know Mr. Schostak?</p> <p>3 A. I do.</p> <p>4 Q. Did you interact with him at all during 2011</p> <p>5 as you carried out this work?</p> <p>6 A. I would have interacted with Bobby, but I do</p> <p>7 not recall interacting with him on</p> <p>8 redistricting matters until July of 2011,</p> <p>9 but I would have interacted with him on a</p> <p>10 variety of other things related to the party</p> <p>11 or our business.</p> <p>12 Q. Would you describe that as lobbying work?</p> <p>13 A. Describe what?</p> <p>14 Q. Your other interactions aside from</p> <p>15 redistricting.</p> <p>16 A. No, I don't -- I'm not involved in lobbying</p> <p>17 work directly.</p> <p>18 Q. Okay. What sort of work was it that was not</p> <p>19 redistricting where you were interacting</p> <p>20 with Mr. Schostak in 2011?</p> <p>21 A. In 2011, Bobby was a client when he was</p> <p>22 elected to the role of State Party Chair.</p> <p>23 Q. And Sterling Corporation, did it help raise</p> <p>24 money for him -- for his campaign, I'm</p> <p>25 sorry?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. You did have a lot of interactions with the</p> <p>2 Michigan Chamber of Commerce organization</p> <p>3 known as MRRI; is that right?</p> <p>4 A. I had interaction with Bob LaBrant in 2011.</p> <p>5 Q. Yeah, Mr. LaBrant is the general counsel of</p> <p>6 that organization?</p> <p>7 A. He was of the Michigan Chamber, yes.</p> <p>8 Q. What other interest groups did you work with</p> <p>9 in 2011 as part of your redistricting work?</p> <p>10 A. By "interest group," please clarify.</p> <p>11 Q. Well, I described the Michigan Chamber of</p> <p>12 Commerce as an interest group.</p> <p>13 Is that fair?</p> <p>14 A. Yes, I believe they would call themselves</p> <p>15 that. I just wasn't sure if you mean the</p> <p>16 Michigan Republican Party as an interest</p> <p>17 group, or if there are specific groups, I</p> <p>18 can answer those questions, but I don't know</p> <p>19 what you mean, who is an interest group and</p> <p>20 who isn't.</p> <p>21 Q. Fair enough. Well, let's start with</p> <p>22 political parties. What parties do you</p> <p>23 recall working with in the course of your</p> <p>24 work in 2011 on redistricting?</p> <p>25 A. I worked with staff who were employed by</p>
<p style="text-align: right;">Page 31</p> <p>1 A. I don't recall if we raised money for him.</p> <p>2 I don't recall. I helped with</p> <p>3 convention-related matters.</p> <p>4 Q. Strategic advice?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have interactions with individuals</p> <p>7 employed by the Republican National</p> <p>8 Committee during 2011?</p> <p>9 A. Yes, but not related to redistricting.</p> <p>10 Q. Generally, what sort of work involved those</p> <p>11 folks?</p> <p>12 A. There was an election in early 2011, January</p> <p>13 or February, for National Party Chair, and I</p> <p>14 was involved in that and would have</p> <p>15 interacted with any number of people with</p> <p>16 the RNC.</p> <p>17 Q. Did you interact with members of the</p> <p>18 National Republican Campaign Committee in</p> <p>19 2011 with regard to redistricting in</p> <p>20 Michigan?</p> <p>21 A. No.</p> <p>22 Q. Did you interact with members of the</p> <p>23 Republican State Leadership Commission or</p> <p>24 Committee -- probably committee, right?</p> <p>25 A. No, not -- no.</p>	<p style="text-align: right;">Page 33</p> <p>1 Republicans in the State Legislature.</p> <p>2 Q. Who else or what other groups?</p> <p>3 A. We've already mentioned the Chamber and the</p> <p>4 Michigan Republican Party. I don't recall</p> <p>5 if there's anyone beyond that.</p> <p>6 Q. Any trade organizations?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Do you think you had any direct interaction</p> <p>9 in 2011 concerning Michigan redistricting</p> <p>10 with the National Republican Campaign</p> <p>11 Committee?</p> <p>12 A. No.</p> <p>13 Q. Do you recall whether others you worked with</p> <p>14 requested information from you where they</p> <p>15 told you they were going to deliver it to</p> <p>16 the National Republican Campaign Committee?</p> <p>17 A. Yes.</p> <p>18 Q. What did you provide to them?</p> <p>19 A. I don't recall specifics, except in one</p> <p>20 instance I remember shapefiles being</p> <p>21 requested.</p> <p>22 Q. Do you recall any other items that you</p> <p>23 provided?</p> <p>24 A. I don't.</p> <p>25 Q. Do you recall working with any other hired</p>

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 34

1 consultants outside of Sterling Corporation
2 in the course of your work in 2011 on
3 redistricting?
4 **A. Other than attorneys, I don't know -- no, I**
5 **don't recall anybody else in my role.**
6 Q. Have you worked with any of the other expert
7 witnesses identified in this litigation?
8 **A. I'm not sure who the experts in this**
9 **litigation are, so I can't answer that**
10 **question.**
11 Q. We know from your Expert Report that you
12 have reviewed the Expert Report of
13 Jowei Chen on paper, right?
14 **A. Correct.**
15 Q. I'm wondering if you had any direct
16 conversations with any other -- any experts
17 in the case?
18 **A. I don't know who the experts in the case**
19 **are, other than I know Chen from his report,**
20 **but I don't know the names of experts on the**
21 **defense side or the Plaintiffs side beyond**
22 **him.**
23 Q. In preparing your report, did you
24 communicate with any other experts as part
25 of putting that together?

Page 36

1 Q. And are you familiar with the term
2 "cracking"?
3 **A. I am.**
4 Q. What does that mean?
5 **A. It's the inverse; it means diffusing**
6 **Republicans and Democrats.**
7 Q. Back to the Expert Report, I want to make
8 sure I understand everything you reviewed
9 when you finished and tendered your final
10 report in, what was it, June of this year?
11 **A. Correct.**
12 Q. What documents did you review?
13 **A. I reviewed Dr. Chen's report on paper. I**
14 **reviewed the 1982 correspondence involving**
15 **the Supreme Court, et al. that I mentioned.**
16 Q. The Michigan Supreme Court?
17 **A. The Michigan Supreme Court, yes, Apol and**
18 **Justice Levin. I reviewed the statutes**
19 **related to the -- the Michigan statutes**
20 **related to legislative and congressional**
21 **redistricting. I reviewed maps from the**
22 **2011, 2001 and 1992 maps -- redistricting,**
23 **the enacted maps in those cases. I**
24 **consulted the Michigan Manual, a State**
25 **publication regarding verification of**

Page 35

1 **A. Terri Marquardt is somebody I consider an**
2 **expert on Apol, and I did on one or two**
3 **occasions consult with Terri in the**
4 **preparation of this report.**
5 Q. Did he provide you with any documents?
6 **A. No.**
7 Q. Did you provide him with documents?
8 **A. No.**
9 Q. Anyone else that you recall communicating
10 with in putting that report together other
11 than lawyers?
12 **A. No.**
13 Q. How would you describe partisan
14 gerrymandering? What's you're working
15 definition?
16 **A. Drawing districts for the express purpose of**
17 **achieving a partisan outcome.**
18 Q. Are you familiar with the term "packing" in
19 the context of that?
20 **A. Yes.**
21 Q. What does that mean to you?
22 **A. It would mean, in the context of**
23 **redistricting, putting Republicans into --**
24 **concentrating Republicans or Democrats in**
25 **certain districts.**

Page 37

1 **population data related to redistricting.**
2 **I don't know if I referenced**
3 **anything else here.**
4 Q. Now, I'll represent to you that there's no
5 list of sources consulted in that document
6 so --
7 **A. Right.**
8 Q. -- I'm trying to test your memory.
9 **A. Those are the sources and documents that I**
10 **recall.**
11 Q. Since you delivered your report in June,
12 have you reviewed other materials in
13 connection with your opinions in this case?
14 **A. Yes.**
15 Q. What are those? And I'm not talking about
16 prepping for the deposition, but in terms of
17 your expert opinions.
18 **A. I have since reviewed shapefile maps from**
19 **Dr. Chen, his work product.**
20 Q. How much time have you spent doing that?
21 **A. Considerable. I can't quantify it sitting**
22 **here.**
23 Q. More than a day?
24 **A. Yes.**
25 Q. More than a week?

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 38

1 **A. Yes.**
2 Q. Have you determined whether you need to
3 prepare any supplement or revision to the
4 opinions expressed in that exhibit?
5 **A. No.**
6 Q. In your review of these shapefiles from
7 Dr. Chen, have you formed any opinion about
8 the algorithm that was used by him?
9 **A. Let me ask for a clarification, if I could.**
10 **Does -- when you say "algorithm," do you**
11 **mean the inputs that he used to create his**
12 **model, or are you referring to a specific**
13 **mathematic code?**
14 Q. Very fair point, and let's have you explain
15 it to me.
16 Have you spent any time studying
17 the source code or other, you know, computer
18 aspects of how the inputs were processed --
19 **A. No.**
20 Q. -- by Dr. Chen?
21 **A. No.**
22 Q. And have you reviewed, as opposed to that,
23 the inputs that went into his work?
24 **A. Yes, and I refer to those (indicating).**
25 Q. In your report?

Page 39

1 **A. Yes.**
2 Q. In your subsequent work, looking at what I
3 think you said were the shapefiles, have you
4 formed any new opinions that are not in your
5 report?
6 **A. No.**
7 Q. I want to make sure I understand the
8 methodology that went into your report.
9 Is it fair to say that, by and
10 large, you applied your years of experience
11 to looking at publicly-available district
12 maps from different time periods?
13 **A. Yes.**
14 Q. As a large part of what you did; is that
15 right?
16 **A. That was part of what I did, yes.**
17 Q. Was it a primary driver of your conclusions,
18 looking at the lines and applying your own
19 experience?
20 **A. The maps, no, I would not characterize it**
21 **that way.**
22 Q. Okay. What -- what did drive your
23 conclusions?
24 **A. My familiarity with the application of the**
25 **Apol standards was the main determinant.**

Page 40

1 Q. Did you consult any treatises whatsoever as
2 you prepared your Expert Report?
3 **A. Treatise? I mean, I described what I**
4 **consulted.**
5 Q. Fair enough. No academic papers, treatises,
6 anything like that, were involved in putting
7 this together; is that right?
8 **A. Correct.**
9 Q. And in terms of the -- the data you looked
10 at, did you look at any election -- I'm
11 sorry. I'll wait until you're ready.
12 **A. Okay.**
13 Q. You're okay?
14 **A. Yes, sorry.**
15 Q. In terms of data that you looked at, you
16 know, that most of us would think of as
17 computer data, was there anything other than
18 the Michigan Manual on population data that
19 you looked at? I'll withdraw that question.
20 I think it was bad.
21 You said you looked at the Michigan
22 Manual on population data. What exactly is
23 that?
24 **A. There are -- there's tables in the Michigan**
25 **Manual that show Senate and House and**

Page 41

1 **congressional districts and the population**
2 **of each district.**
3 Q. What time periods did you look at in terms
4 of that manual?
5 **A. The populations related to the 2011, the**
6 **2001 and the 1992 enacted plans.**
7 Q. Okay. Did you look at election results in
8 connection with preparing this
9 Expert Report?
10 **A. No.**
11 Q. Do you think election results have any
12 bearing on the application of the Apol
13 criteria?
14 **A. Of the Apol criteria, no, they do not.**
15 Q. I believe you told me about your
16 conversation with Mr. Marquardt in putting
17 your report together, and you looked at maps
18 and population data.
19 Did you rely on anything else in
20 forming your opinions about the enacted
21 House districts, the Michigan House
22 districts?
23 **A. Of the enacted?**
24 Q. Yes, as to whether they were gerrymandered
25 or not; did you use anything else?

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 42

1 **A. My memory.**
2 Q. Did you have a lot of communications about
3 the Michigan House districts in the course
4 of 2011?
5 **A. Yes.**
6 Q. You did. So, if I were to describe your
7 work for Sterling Corporation that year as
8 mostly devoted to drawing the congressional
9 districts or draft congressional districts,
10 would that be accurate?
11 **A. Mostly, yes.**
12 Q. Okay. In terms of the enacted Senate
13 districts for 2011, did you rely on any
14 communications with anybody, collect any
15 additional information besides what you've
16 already described to me, maps, population
17 data and the Apol criteria?
18 **A. I want to ask for clarification two**
19 **questions back. You were asking, did I have**
20 **communications about the House plan, was**
21 **that in relation to the preparation of my**
22 **report?**
23 Q. That's right.
24 **A. No, I thought you were referring to did I**
25 **have communications regarding House maps in**

Page 43

1 **2011.**
2 Q. Okay.
3 **A. And so I did not, in relation to this**
4 **report, have anything other than what I**
5 **described, and the same would go for the**
6 **Senate.**
7 Q. Back in 2011, did you testify in any
8 hearings connected to the adoption of the
9 apportionment plans?
10 **A. I did not.**
11 Q. So, you called Terri Marquardt as you were
12 putting that report together?
13 **A. Um-hmm.**
14 Q. And you discussed with him the timeline of
15 the legislation?
16 **A. I discussed with him the circumstances and**
17 **the timeline regarding the introduction of a**
18 **substitute map that was introduced by**
19 **Gretchen Whitmer in June of 2011.**
20 Q. Who was Gretchen Whitmer?
21 **A. She at the time was a State Senator.**
22 Q. What did he tell you?
23 **A. Well, I asked him if my memory -- this is**
24 **what I recall, is that correct, and he said,**
25 **to the best of his recollection, it was, the**

Page 44

1 timing of that.
2 **One other thing that I did consult**
3 **with were the Senate and House journals**
4 **related to June -- related to the passage of**
5 **these -- the legislation, when they were**
6 **being debated, when they voted.**
7 Q. How did that information affect your
8 opinions?
9 **A. It corroborated my memory that there were**
10 **numerous Democrats who voted for passage of**
11 **the enacted plans and showed me specifically**
12 **who they were. I couldn't recall everybody**
13 **accurately.**
14 Q. Did numerous Democrats vote for the
15 enactment of the congressional plans in
16 2011?
17 **A. I don't recall.**
18 Q. When you talked to Terri Marquardt in
19 preparing that report, what records did you
20 request from him?
21 **A. I asked on a separate occasion than the**
22 **one -- the discussion about the Whitmer**
23 **substitute, I asked if he had any**
24 **information that listed the -- specifically**
25 **spelled out the county splits -- or county**

Page 45

1 **breaks, municipal splits, et cetera. Those**
2 **were -- some of those details were included**
3 **in the legislation in 2001, but were not in**
4 **2011, and I was looking for that in**
5 **preparation of this.**
6 Q. Did you ask to see any of his emails in
7 connection with redistricting?
8 **A. I did not.**
9 Q. Did you talk to Mr. Marquardt about both the
10 Michigan House apportionment and the
11 Michigan Senate apportionment?
12 **A. No.**
13 Q. Which districts was Mr. Marquardt involved
14 in drawing in 2011?
15 **A. Districts were -- I guess I'm not sure --**
16 Q. Is it fair to call Marquardt a map drawer?
17 **A. Oh, yes.**
18 Q. Okay. What maps was he drawing in 2011?
19 **A. He was largely -- or primarily involved in**
20 **the -- the drawing of Senate districts.**
21 Q. Who was involved in drawing House districts,
22 Michigan House districts?
23 **A. Dan McMaster and Brian Began.**
24 Q. Did you talk to either of those individuals
25 in order to prepare your Expert Report?

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 46

1 **A. I did not.**
2 Q. In a number of places in your Expert Report,
3 you refer to Dr. Chen's report, and you say
4 that you -- because of time constraints,
5 generally, you were limited to the report
6 and not the 1,000 or so maps that he
7 prepared.
8 Have you since examined any of
9 those maps that Dr. Chen generated?
10 **A. I mentioned I've reviewed some of the**
11 **shapefiles of those maps.**
12 Q. And has that changed any of your
13 conclusions?
14 **A. No.**
15 Q. What time have you spent examining the
16 demonstration map attached to -- I guess
17 plural, maps attached to Plaintiffs'
18 Complaint in this lawsuit?
19 **A. How much time, is your question?**
20 Q. Yes.
21 **A. Several hours.**
22 Q. Was that prior to preparing your report?
23 **A. Some.**
24 Q. I -- I confess, I don't find a reference to
25 any examination of the demonstration maps in

Page 48

1 of a safe harbor for map drawers, so long as
2 there are straightfaced arguments that a map
3 is in compliance with Apol, it's legal?
4 **A. I don't, I guess, offer a legal opinion. I**
5 **look at the Apol standards as a rudder that**
6 **guides the process.**
7 Q. Is it fair to say it's the primary rudder in
8 your work that you performed?
9 **A. The -- yes. The incorporation of whole**
10 **geographies to the extent possible.**
11 Q. Among the Apol criteria, do you rank them in
12 your own mind in terms of which are more
13 important and which are least important?
14 **A. I believe there's a reference to hierarchy**
15 **in the 1982 correspondence, placing a high**
16 **priority on county integrity -- county**
17 **boundary integrity and municipal integrity.**
18 Q. In the 2001 congressional district
19 apportionment, how many county breaks were
20 there?
21 **A. 2001?**
22 Q. Yes.
23 MR. ELLSWORTH: And what plan?
24 THE WITNESS: Yeah.
25 MR. TONER: Congressional

Page 47

1 your expert opinions.
2 Why did you choose not to mention
3 that?
4 **A. I thought I did. There's a reference to the**
5 **combination -- on the congressional**
6 **demonstration map, there was a combination**
7 **of whole counties comprising the first**
8 **districts, and I do reference that.**
9 Q. I stand corrected. You were referring to
10 the number of county breaks in the enacted
11 map versus the demonstration map?
12 **A. Right.**
13 Q. Okay. Anything else in your opinions about
14 those demonstration maps that I might have
15 missed?
16 **A. No. Most -- my report was focused on the --**
17 **Dr. Chen's report, and I don't know if**
18 **Dr. Chen produced those maps or not.**
19 Q. In your Expert Report where you discuss
20 Dr. Chen's analysis, you note that he used
21 VTDs as opposed to Census tracts and blocks.
22 Have you done any calculations to
23 determine how much difference that makes?
24 **A. No.**
25 Q. Do you view the Apol criteria as some sort

Page 49

1 districts.
2 MR. ELLSWORTH: Thank you.
3 THE WITNESS: I believe there were
4 12 or 13. We had an additional district in
5 that plan than in the 2011 plan.
6 BY MR. TONER:
7 Q. And in 2011, there were 14 congressional
8 districts?
9 **A. There were 14 congressional districts.**
10 Q. How many county breaks were there?
11 **A. 11.**
12 Q. In addition to the Apol criteria, did the
13 legislature also manipulate the district
14 lines for the congressional districts in
15 order to satisfy Republican members of
16 Congress?
17 **A. I guess I would ask for clarification on**
18 **what do you mean by "manipulate"?**
19 Q. In the way they were drawn.
20 **A. If the -- did the legislators consider -- I**
21 **understand them to have considered the**
22 **opinions and desires of congressional**
23 **members in the concerns about being able to**
24 **have enough votes to pass plans.**
25 Q. In the -- the breaking of county lines in

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 50

1 the final districts, did the positions of
2 those breaks, in part, get determined in
3 order to placate Republican members of
4 Congress, incumbent members of Congress?
5 **A. I guess the -- their concerns were factored**
6 **in to the extent that they did not impact**
7 **the Apol criteria or the Voting Rights Act**
8 **is what I recall, so they -- that's --**
9 Q. Is there anything in the Apol criteria, in
10 the Michigan statutes, that directs the
11 legislature to take into account the desires
12 of elected incumbents in drawing the
13 district lines?
14 **A. The legislature, when passing bills, needs**
15 **to take into account what it takes to**
16 **achieve 56 votes in the House and 20 in the**
17 **Senate.**
18 Q. Is that in the criteria anywhere?
19 **A. No.**
20 Q. Is that in the statute anywhere?
21 **A. I think it's assumed in the statute that, in**
22 **order to adopt a plan, it needs to pass the**
23 **legislature.**
24 Q. You say it's assumed. Does it say that
25 anywhere in the statute?

Page 51

1 **A. No.**
2 Q. And that's also not in any of the
3 correspondence you attach to your
4 Expert Report, is it, the concerns of
5 incumbents? I'm talking about the 1982
6 correspondence between Mr. Apol and the
7 Michigan Supreme Court.
8 **A. No, because they weren't concerned in 1982**
9 **about legislative passage. They had already**
10 **moved beyond that, and the Court was**
11 **ordering a plan, the legislature had failed.**
12 Q. And there's nothing in that correspondence
13 directing Mr. Apol to do anything to try to
14 preserve existing districts, is there?
15 **A. I don't recall.**
16 Q. In fact, in the April 1, 1982 memo to
17 Bernard Apol from Kyle Hoag, he stated:
18 You're correct in saying that the Court
19 deliberately did not say anything about
20 preserving existing districts. Preservation
21 of existing districts is not a factor."
22 **A. Which page is that on?**
23 Q. Well, they are not numbered, I apologize,
24 but I'm happy to show it to you
25 (indicating).

Page 52

1 **A. Okay.**
2 Q. Do you agree with me that that's what it
3 says?
4 **A. I agree that that's what it says.**
5 Q. And that's not -- this preservation of
6 existing districts appears no where in the
7 Apol criteria or the statutes; is that
8 correct?
9 **A. Correct. I believe that the 2001 LeRoux**
10 **case, that that is mentioned in there,**
11 **though.**
12 Q. And do you feel that that decision provided
13 you license in drawing the maps to add the
14 preservation of existing districts as a
15 primary consideration in drawing the lines?
16 **A. No. I believe that that gave the**
17 **legislators who voted on passage or not of**
18 **the plans ability to consider what they**
19 **wanted when deciding how to vote.**
20 Q. And that includes the consideration of
21 members of the United States House of
22 Representatives in their districts, their
23 incumbency?
24 **A. To the extent that mattered to legislators**
25 **who were voting on passage of the plan, yes.**

Page 53

1 Q. Do you think Michigan legislators were
2 allowed to trump the Apol criteria using
3 that factor?
4 What I mean by that is, in your
5 mind, would it be okay to have more county
6 breaks so long as you're making an incumbent
7 happy?
8 **A. You asked two different questions. So --**
9 Q. Just pick one.
10 **A. No, I want to -- the -- is it okay -- the**
11 **legislators can determine any factor they**
12 **want. The criteria don't compel them to**
13 **order a plan, otherwise the legislators**
14 **wouldn't be involved. They -- they have to**
15 **vote on adoption or not of legislation the**
16 **same as if it were a road funding bill, and**
17 **there could have been 148 different factors**
18 **that went into making those decisions.**
19 **That's the number of legislators who were**
20 **voting.**
21 Q. What other political factors would a
22 legislature be permitted to take into
23 consideration?
24 **A. A legislature could take in any factor,**
25 **yeah, any factor.**

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 54

1 Q. You cited a court case, and consistent with
2 that case, what other politics can they
3 consider?
4 **A. They can consider factors beyond what the**
5 **previous statutes or -- or the**
6 **correspondence in 1982, the Court-ordered**
7 **plan determined.**
8 MR. TONER: Would you like to take
9 five minutes.
10 (A recess was taken.)
11 BY MR. TONER:
12 Q. Mr. Timmer, let's go back to Exhibit 142,
13 your Expert Report, and I want to focus on
14 page 5 to begin with titled: "Key Points
15 Executive Summary." Do you see that?
16 **A. I do.**
17 Q. In terms of your conclusions about the House
18 lines and the Senate lines that were adopted
19 in 2011, did you participate in all of the
20 give-and-take on those lines, or are you
21 relying on others to report to you what was
22 involved? Does that question make sense?
23 **A. No.**
24 Q. I'm trying to figure out the extent to which
25 you have firsthand knowledge of how those

Page 56

1 **and I would look at them a different way.**
2 Q. How often were the proposed Michigan House
3 maps shared with you during that process in
4 2011?
5 **A. Frequently.**
6 Q. Did they arrive by email most often?
7 **A. No, I think most of them were in-person**
8 **meetings.**
9 Q. I see. Where did those meetings occur?
10 **A. Here.**
11 Q. Who participated?
12 **A. Mr. Ellsworth, Jeff Stuckey, Joe Baumann,**
13 **Fred Hall, Dave Murley, Bob LaBrant,**
14 **Terri Marquardt, Dan McMaster, Brian Began,**
15 **me. Those would have been the key**
16 **participants, the consistent participants.**
17 Q. How often did those meetings occur?
18 **A. Perhaps as often as weekly.**
19 Q. Did any Democrat representatives attend?
20 **A. No.**
21 Q. Did any Democrat interest groups attend?
22 **A. No.**
23 Q. Did any non-partisan organizations send any
24 representatives to those meetings?
25 **A. Yes.**

Page 55

1 lines were drawn and proposed to the
2 legislature?
3 **A. I have -- my role related to the House and**
4 **Senate plans was to look at them through the**
5 **prism of the Apol criteria and see if they**
6 **were -- the county breaks, the municipal**
7 **breaks, the shifting of the fewest MCDs,**
8 **et cetera, that are required under Apol, if**
9 **they were being applied, if there was a**
10 **different way to do that, if I saw something**
11 **that they didn't.**
12 Q. In other words, your analysis here in the
13 Expert Report was an after-the-fact analysis
14 where you tried to justify the lines by the
15 Apol criteria?
16 **A. No.**
17 Q. How --
18 **A. No, it was -- it was during the map-drawing**
19 **process.**
20 Q. But you weren't involved directly in the
21 drawing of the House lines, were you?
22 **A. Well, I just explained how I was. They**
23 **would share -- House or Senate would share**
24 **with me maps under -- versions of maps,**
25 **configurations, that they were looking at,**

Page 57

1 Q. Who?
2 **A. The Michigan Chamber of Commerce.**
3 Q. Do you believe the Michigan Chamber of
4 Commerce was non-partisan in the 2011
5 redistricting process?
6 **A. I believe they are not a partisan**
7 **organization, and they would not**
8 **characterize themselves as a partisan**
9 **organization. They are a business interest**
10 **group.**
11 Q. Do you think they were indifferent as to
12 which political party controlled the
13 Michigan House of Representatives?
14 **A. No.**
15 Q. Do you think they were indifferent as to
16 which political party controlled the
17 Michigan Senate?
18 **A. No.**
19 Q. And do you think the Michigan Chamber of
20 Commerce was indifferent as to whether there
21 were more Republicans from Michigan in the
22 United States House of Representatives than
23 Democrats?
24 **A. No.**
25 Q. Is it still your testimony that they're not

Deposition of Jeffrey Timmer Vol. I - 8/22/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

<p style="text-align: right;">Page 58</p> <p>1 a partisan organization?</p> <p>2 A. My testimony was how they would characterize</p> <p>3 themselves. They are not a political party.</p> <p>4 Q. Is that called, in your business, public</p> <p>5 relations or spin?</p> <p>6 A. I'm not making a characterization on that.</p> <p>7 Q. Back on page 5, in the center, you begin the</p> <p>8 paragraph: "Since districts were drawn in</p> <p>9 sets, they cannot be considered in</p> <p>10 isolation."</p> <p>11 Well, first off, as someone who is</p> <p>12 not a map driver, can you explain that a</p> <p>13 little more fully to me?</p> <p>14 A. Dr. Chen's report concludes that specific</p> <p>15 districts he calls partisan outliers. The</p> <p>16 point of my report was that -- in here is</p> <p>17 that you cannot look at those districts</p> <p>18 isolated as individual districts, that there</p> <p>19 were other factors impacting how they were</p> <p>20 configured; and in this case, the -- there</p> <p>21 were sets of -- of counties in the 1982</p> <p>22 correspondence with the Supreme Court</p> <p>23 describes this process grouping together</p> <p>24 whole counties to form districts that caused</p> <p>25 the least violation to those county</p>	<p style="text-align: right;">Page 60</p> <p>1 And so that's the prism I was</p> <p>2 looking at, and a computer -- Dr. Chen</p> <p>3 describes his process, that that was all</p> <p>4 computer-generated. We didn't have that.</p> <p>5 We had, you know, people like myself and</p> <p>6 Terri Marquardt doing -- playing the role of</p> <p>7 computer.</p> <p>8 Q. My understanding of what you're describing</p> <p>9 is that it was more trial and error, if you</p> <p>10 will, trying different lines --</p> <p>11 A. Correct.</p> <p>12 Q. -- to see what the results were?</p> <p>13 A. Correct, and I do refer to that.</p> <p>14 Q. And you track the results in terms of the</p> <p>15 population count and in terms of prior</p> <p>16 election results; is that right?</p> <p>17 A. Track it that way?</p> <p>18 Q. Well, as you draw the lines --</p> <p>19 A. Right, population --</p> <p>20 Q. -- doesn't your software tell you --</p> <p>21 A. Yeah.</p> <p>22 Q. -- how those lines affect -- what those</p> <p>23 lines would have resulted in terms of past</p> <p>24 election results?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 59</p> <p>1 boundaries.</p> <p>2 Q. Okay. Is there a rule of thumb for what you</p> <p>3 consider to be a county set for this</p> <p>4 analysis?</p> <p>5 A. Yes, the one that caused the least number of</p> <p>6 county breaks across an entire -- the state.</p> <p>7 Q. And in the case of the congressional plan, I</p> <p>8 guess providing equal population counts in</p> <p>9 every district?</p> <p>10 A. Correct, yeah, contiguity, obviously, is a</p> <p>11 criteria that's listed in the -- in the</p> <p>12 statute and in the Apol correspondence, and</p> <p>13 that's required, too.</p> <p>14 Q. Your last paragraph on that page talks about</p> <p>15 a human missing a bulls-eye on a dartboard.</p> <p>16 What do you think the bulls-eye was</p> <p>17 in 2011 redistricting?</p> <p>18 A. From my perspective, my role was to produce</p> <p>19 plans in the congressional plans and to help</p> <p>20 advise the House and Senate map drawers to</p> <p>21 produce plans that had the least number of</p> <p>22 county breaks, the least number of municipal</p> <p>23 breaks and that shifted the fewest number of</p> <p>24 cities or townships when a county break</p> <p>25 occurred.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. Okay. As you applied those Apol criteria</p> <p>2 and tried to hit the bulls-eye, were you</p> <p>3 indifferent about how many Republicans are</p> <p>4 likely to be elected to the United States</p> <p>5 Congress for the next 10 years using your</p> <p>6 draft map?</p> <p>7 A. I was aware. "Indifferent" is certainly not</p> <p>8 the right word but that wasn't the role I</p> <p>9 was asked to perform.</p> <p>10 Q. Did you make any effort to try and come up</p> <p>11 with districts that were more likely than</p> <p>12 not to produce five Michigan US</p> <p>13 representatives and four Democrat US</p> <p>14 representatives over the next 10 years of</p> <p>15 elections? Did I --</p> <p>16 A. The numbers didn't --</p> <p>17 Q. 9 and 5 -- a 9/5 split of parties.</p> <p>18 A. I was trying to follow you.</p> <p>19 Q. Apologies.</p> <p>20 A. My role in the process was to produce maps</p> <p>21 that minimized the county breaks and to</p> <p>22 minimize the other -- satisfy the other</p> <p>23 criteria, and in the process of</p> <p>24 redistricting in 2011, others were concerned</p> <p>25 about those factors. That wasn't what I was</p>

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 62

1 **asked to do.**
2 Q. If a -- a map could have been drawn that was
3 more likely to elect 10 Democrats and 5
4 Republicans with fewer county breaks, would
5 you have proposed it?
6 **A. I would have produced it and let others**
7 **decide what happened with that.**
8 Q. Did you ever do that?
9 **A. I did not.**
10 Q. Or any other -- did you ever produce any
11 other combination where the Democrats were
12 more likely to have a majority in those
13 elected to Congress?
14 **A. I do not recall versions that did that.**
15 Q. On page 6, you state, in the second little
16 bullet point there, that, "The criteria are
17 not strictly binding on the legislature,"
18 and I think you've already explained that to
19 me, and you talk about neutral
20 considerations not listed in the statute.
21 How in your mind is incumbency a
22 neutral consideration?
23 **A. It takes into account -- I mean, by**
24 **"neutral," I'm referring to one that's not**
25 **partisan in and of itself. It refers to**

Page 64

1 Q. Did you ever draw any draft maps that would
2 have pitted two Republican incumbents
3 together in the same district in 2011?
4 **A. Yes.**
5 Q. Which were the representatives?
6 **A. Lisa Lyons, Ken Yonker.**
7 Q. What district would that have been?
8 **A. I don't know, they were Kent County, I don't**
9 **know the number, State House members in**
10 **Kent County.**
11 Q. I see. How about for the congressional
12 districts, did you ever generate a proposal
13 that pitted two Republican
14 representatives --
15 **A. I don't recall doing so.**
16 Q. You make some comments about Dr. Chen's
17 approach ignoring compactness requirements.
18 Have you done any calculations of
19 the compactness of any of the thousand maps
20 Dr. Chen generated?
21 **A. No, because compactness isn't a requirement**
22 **under Apol.**
23 Q. All right. Did you ever have any concerns
24 about the shapes of some of the proposed
25 districts?

Page 63

1 **the -- the person who happens to occupy a**
2 **certain office representing a certain**
3 **geography.**
4 **They run as partisans, but it's not**
5 **overt -- it's just a fact that they're there**
6 **at the time this is being voted on and the**
7 **maps are being drawn.**
8 Q. If your plan were to make it more likely
9 that a Republican member of Congress from
10 Michigan could retain his seat in the next
11 election, that Democrats would feel neutral
12 about that proposal?
13 **A. I don't know how they would feel about it.**
14 Q. Well, how do you --
15 **A. I wasn't asked to analysis feelings.**
16 MR. ELLSWORTH: Let him finish.
17 BY MR. TONER:
18 Q. I didn't mean to interrupt you. Are you
19 done?
20 **A. Yes.**
21 Q. Would you expect Democrats to care if your
22 proposed map made it more likely that
23 Republicans elected to Congress could all
24 keep their seats?
25 **A. I -- I would expect them to, yes.**

Page 65

1 **A. Concern?**
2 Q. Yeah. In the course of preparing draft
3 plans, as you got the numbers to work, you
4 pushed your Chair back for a second and
5 looked at what you had drawn, did it ever
6 concern you what it looked like?
7 **A. I recognize a reference in the report that**
8 **observers of the process point to districts**
9 **that look strange to the eye.**
10 **Justice Levin, in 1982, references that as**
11 **well in his correspondence, because I know**
12 **observers who aren't versed in the details**
13 **of the process look at shapes as determinant**
14 **of something strange going on.**
15 **David Daley does that in his book**
16 **when he's just describing the boundaries of**
17 **the city of Pontiac, that a garbage dump is,**
18 **you know, part of an appendage, as he calls**
19 **it, on the city of Pontiac.**
20 **So, yes, I understand that how**
21 **districts look will impact how they are --**
22 **the public relations aspect of what happens**
23 **afterward.**
24 Q. And by "public relations," aren't we mostly
25 talking about the voters of Michigan, what

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

<p style="text-align: right;">Page 66</p> <p>1 their reaction is going to be when they see</p> <p>2 in the newspaper what their district looks</p> <p>3 like?</p> <p>4 A. No, it's more the newspaper reporters and</p> <p>5 editors and how they characterize how</p> <p>6 they -- how they look.</p> <p>7 Q. You state on page 7 that Dr. Chen's may have</p> <p>8 miscounted municipal splits in his</p> <p>9 congressional map.</p> <p>10 Have you done further work to</p> <p>11 determine whether you're right about that?</p> <p>12 A. What I said was I was concerned given the</p> <p>13 seemingly low number of municipal splits,</p> <p>14 and what I said was that it would involve</p> <p>15 undiscovered, unfamiliar to me, combinations</p> <p>16 resulting in configurations that would</p> <p>17 appear strange if, in fact, he came up with</p> <p>18 those.</p> <p>19 And in the -- the maps that I have</p> <p>20 looked at subsequent to the submission of</p> <p>21 this report, when it comes to municipal</p> <p>22 splits, other than his miscounting or</p> <p>23 misrepresenting the number of splits in the</p> <p>24 enacted plans.</p> <p>25 Q. You're talking about county splits?</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Of the enacted plans?</p> <p>2 Q. Yes.</p> <p>3 A. No.</p> <p>4 Q. How about the demonstration map, does it</p> <p>5 miscount county splits?</p> <p>6 A. The demonstration maps, I do not believe</p> <p>7 miscount county splits.</p> <p>8 Q. And the other 1,000 examples, do they</p> <p>9 miscount county breaks?</p> <p>10 A. Some do.</p> <p>11 Q. Some do. How many?</p> <p>12 A. I don't -- some. I have not reviewed all.</p> <p>13 Q. About how many have you reviewed?</p> <p>14 A. Five.</p> <p>15 Q. Do you have a list of those five somewhere</p> <p>16 where you could identify them for me?</p> <p>17 A. Yes.</p> <p>18 Q. Maybe you don't recall them off the top of</p> <p>19 your head?</p> <p>20 A. I do not.</p> <p>21 Q. But have you preserved that somehow so we</p> <p>22 could figure out which five you're talking</p> <p>23 about?</p> <p>24 A. Yes.</p> <p>25 MR. TONER: I'd ask for that</p>
<p style="text-align: right;">Page 67</p> <p>1 A. I'm talking about municipal splits.</p> <p>2 Q. Okay.</p> <p>3 A. Like for instance, he references -- let me</p> <p>4 find it. In the enacted House plan, on</p> <p>5 page 40 of his report, he says, the enacted</p> <p>6 plan contains 24 municipal splits, excluding</p> <p>7 Detroit, compared to 14 in the majority of</p> <p>8 his simulated plans. The 24 municipal split</p> <p>9 figure he refers to was correct only when</p> <p>10 including the splits in the city of Detroit.</p> <p>11 So, that's what I -- he -- if</p> <p>12 that's a typo, I don't know, but he's</p> <p>13 implying that there are more than 24 splits</p> <p>14 in the enacted plans, and that's not</p> <p>15 correct.</p> <p>16 Q. Besides the city of Detroit number you just</p> <p>17 referenced, are there other districts where</p> <p>18 you believe Dr. Chen miscounted the splits?</p> <p>19 A. I believe he miscounted county splits.</p> <p>20 Q. Which counties?</p> <p>21 A. It depends -- it would vary depending on the</p> <p>22 version of the plan.</p> <p>23 Q. Well, in terms of the congressional</p> <p>24 districts, did he miscount any of the county</p> <p>25 splits?</p>	<p style="text-align: right;">Page 69</p> <p>1 information, just so we know what he looked</p> <p>2 at, please.</p> <p>3 BY MR. TONER:</p> <p>4 Q. On page 7, you have three bullet points, and</p> <p>5 in the first you say you're of the opinion</p> <p>6 that Dr. Chen's conclusion that certain</p> <p>7 House districts are partisan outliers is</p> <p>8 unfounded, and you state those districts</p> <p>9 were drawn in substantial compliance with</p> <p>10 the Apol criteria.</p> <p>11 A. And where are you referring to?</p> <p>12 Q. Oh, I'm sorry. It begins with -- further</p> <p>13 down the page, you see the three bullets at</p> <p>14 the bottom?</p> <p>15 A. Oh, at the bottom, okay, yes, yes, okay.</p> <p>16 Q. Okay. "I'm of the opinion that" -- you see</p> <p>17 that?</p> <p>18 A. Um-hmm.</p> <p>19 Q. Okay. And that's talking about House</p> <p>20 districts, and your overall conclusion is</p> <p>21 that those enacted districts were in</p> <p>22 substantial compliance with the Apol</p> <p>23 criteria, right?</p> <p>24 A. Correct.</p> <p>25 Q. And that's based on just reviewing the</p>

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 70

1 actual maps and your knowledge of the
2 criteria?
3 **A. That's based on my participation in the**
4 **process at the time they were drawn.**
5 Q. Okay.
6 **A. And subsequent review of the maps in**
7 **preparation of this report.**
8 Q. Your understanding about those instances
9 where the criteria were not strictly
10 followed, is that based on your firsthand
11 knowledge of what -- what happened or
12 something else?
13 **A. It's -- the answer would be both.**
14 Q. Okay.
15 **A. There -- there are instances I am familiar**
16 **with from 2011 that the -- for instance,**
17 **the introduction of the Whitmer substitute**
18 **that I mentioned that had five county breaks**
19 **in the Senate plan and the adoption of a**
20 **plan that had six county breaks that I was,**
21 **you know, part of at the time. So, it's --**
22 Q. What was the justification for the one with
23 six breaks?
24 **A. That it was an 11th -- that was the -- the**
25 **wheels of the legislative process were**

Page 72

1 **and in Wayne and Washtenaw County in the**
2 **Senate.**
3 Q. Were there any agreements, understandings
4 and compromises within the Republicans in
5 the Michigan House to garner support for the
6 enacted plan?
7 **A. I don't know. I know that there were --**
8 **there were -- any changes to plans that I'm**
9 **aware of did not impact the number of county**
10 **breaks, municipal breaks, et cetera, related**
11 **to Apol, and that is what I've mentioned in**
12 **my report.**
13 Q. In terms of the Senate, what instances do
14 you recall in which there was not strict
15 following of the Apol criteria?
16 **A. The split of Clinton Township in**
17 **Macomb County.**
18 Q. Okay. What's your understanding of why that
19 split occurred?
20 **A. My understanding was that was something that**
21 **was requested by senators or legislators**
22 **from -- from Macomb County.**
23 Q. What other ones do you recall?
24 **A. In the -- the county grouping in the Senate**
25 **plan that would include Washtenaw and**

Page 71

1 moving. There was tremendous concern from
2 the -- the legislators, the Majority Leader
3 in that instance, that the tenuous majority
4 he had been able to cobble together for
5 support of the plan would be impacted and
6 potentially lost if -- if there wasn't time
7 to consider in his -- his view.
8 Q. Any other examples concerning those House
9 districts?
10 **A. There are agreements and understandings and**
11 **compromises that were part of the**
12 **legislative process that I -- I was not part**
13 **of the direct deliberations or discussions**
14 **but heard them immediately afterward.**
15 Q. What makes you conclude that those
16 agreements, understandings and compromises
17 were for other than partisan reasons?
18 **A. Because they were -- the instances I'm**
19 **thinking about were bipartisan as opposed to**
20 **non-partisan.**
21 Q. Okay. List them for me, those instances.
22 **A. Well, the -- the instances I refer to in the**
23 **report with the representatives,**
24 **Wayne County, some Democrats in Wayne County**
25 **in the State House, and in Macomb County,**

Page 73

1 **Livingston County, under the Apol criteria**
2 **that requires the shifting of the fewest**
3 **number of cities or townships necessary to**
4 **bring the affected districts in compliance**
5 **with the population requirement, there were**
6 **two additional townships that are included**
7 **with Livingston County that under -- two**
8 **more than were necessary.**
9 Q. Returning for a second to that
10 Clinton Township split you just mentioned,
11 was that split requested by Republicans or
12 Democratic legislators?
13 **A. I think it was requested by Republicans.**
14 Q. Okay. Any other instances concerning these
15 Senate districts where you recall there was
16 a departure from the Apol criteria?
17 **A. No.**
18 Q. Let's turn then to the congressional
19 districts. What were the instances where
20 those districts were drawn as a departure
21 from the Apol criteria?
22 **A. There weren't.**
23 Q. You say in that bullet: "Where Apol
24 criteria were not strictly followed, it was
25 for other than partisan reasons."

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 74

1 Well, what are you talking about
2 there? Were there or were there not
3 departures?
4 **A. I do not think that there were departures.**
5 Q. Do you know what software was used to draw
6 the Michigan House maps in 2011?
7 **A. Is it -- I believe it's called AutoBound.**
8 Q. Do you know what software was used to draw
9 the Michigan Senate maps in 2011?
10 **A. I believe it was the same. That was**
11 **purchased by the State of Michigan.**
12 Q. Do you know any reason why they were using
13 AutoBound and you were using Maptitude?
14 **A. No. I mean, the -- I believe that all**
15 **Republicans and Democrats in the legislature**
16 **used AutoBound, they used the same software,**
17 **and they used the same election history**
18 **database.**
19 Q. In Footnote 2 on page 10, you say: "Plans
20 were invited from the public."
21 Did you ever receive any plans
22 directly from members of the public?
23 **A. Directly from members of the public?**
24 Q. Yes.
25 MR. KNAPP: Can we take a break?

Page 76

1 ERRATA SHEET
2 Page/Ln Correction Reason
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21 _____
22 _____
23 _____
24 _____
25 _____

Page 75

1 I'm sorry.
2 MR. TONER: Yes.
3 (A recess was taken.)
4 MR. ELLSWORTH: Counsel have agreed
5 to adjourn the deposition, and we'll
6 reschedule and continue it due to unforeseen
7 circumstances.
8 (At 9:47 a.m. the deposition was
9 recessed.)
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Page 77

1 I, JEFFREY TIMMER, have read this deposition
2 transcript and acknowledge herein its
3 accuracy except as noted on the errata
4 sheet.
5
6
7
8 _____
9 Signature
10
11 _____
12 Notary Public
13
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1 STATE OF MINNESOTA
2 CERTIFICATE
3 COUNTY OF WASHINGTON

4 I, Kelly A. Herrick, hereby
5 certify that I reported the deposition of
6 JEFFREY TIMMER on the 22nd day of August,
7 2018 in Lansing, Michigan, and that the
8 witness was by me first duly sworn to tell
9 the truth and nothing but the truth
10 concerning the matter in controversy
11 aforesaid;

12 That I was then and there a notary
13 public in and for the County of Washington,
14 State of Minnesota; that by virtue thereof I
15 was duly authorized to administer an oath;

16 That the foregoing transcript is a
17 true and correct transcript of my
18 stenographic notes in said matter,
19 transcribed under my direction and control;

20 That the cost of the original has
21 been charged to the party who noticed the
22 deposition and that all parties who ordered
23 copies have been charged at the same rate
24 for such copies;

25 That the reading and signing of
the deposition was not waived;

That I am not related to any of
the parties hereto, nor interested in the
outcome of the action and have no contract
with any parties, attorneys or persons with
an interest in the action that has a
substantial tendency to affect my
impartiality;

WITNESS MY HAND AND SEAL this 27th
day of August, 2018.

Kelly A. Herrick
Notary Public

Deposition of Jeffrey Timmer Vol. I - 8/22/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, the Secretary of the State of Michigan

Page 79

A	71:10,16 72:3	13:7	BAKER 2:2	49:10 50:2	55:8 72:10
a.m. 4:4 75:8	ahead 8:11	April 27:8	ballot 16:9	53:6 55:6,7	Chair 30:22
ability 6:20	al 36:15	51:16	20:8	59:6,22,23	31:13 65:4
52:18	algorithm 38:8	April/early	ballpark 13:7	61:21 62:4	Chamber 32:2
able 11:13	38:10	27:17	14:4	68:9 70:18	32:7,11 33:3
49:23 71:4	Allen 4:14	area 5:20	Barclay 2:23	70:20,23	57:2,3,19
above-entitled	allowed 53:2	arguments	based 69:25	72:10,10	changed 46:12
4:7	amount 13:24	48:2	70:3,10	Brewer 2:11	changes 72:8
academic	analysis 47:20	arrive 56:6	Bates 9:11,16	Brian 45:23	chapter 21:10
23:23 24:2,4	55:12,13	art 5:20	Baumann	56:14	characteriza...
40:5	59:4 63:15	aside 30:14	56:12	bring 73:4	21:24 22:15
accord 7:25	answer 6:2,5,8	asked 43:23	bearing 41:12	bullet 62:16	58:6
8:16	8:12 9:8	44:21,23	Began 45:23	69:4 73:23	characterize
account 50:11	10:12 13:22	53:8 61:9	56:14	bullets 69:13	39:20 57:8
50:15 62:23	14:9 32:18	62:1 63:15	Beginning	bulls-eye 59:15	58:2 66:5
accounts 7:14	34:9 70:13	asking 42:19	20:14	59:16 61:2	charged 13:17
7:15,19 8:17	answers 6:21	aspect 65:22	begins 69:12	business 17:9	78:13,14
accuracy 77:3	anybody 34:5	aspects 38:18	begun 19:11	30:11 57:9	Chen 34:13,19
accurate 21:4	42:14	Assistant 19:4	behalf 14:23	58:4	37:19 38:7
22:8 42:10	Apol 7:7 9:23	Associates	believe 12:22	C	38:20 46:9
accurately	24:6 28:9	12:8 14:6	16:20 20:24	calculations	47:18 60:2
21:13 44:13	35:2 36:17	15:15	24:19 32:14	47:22 64:18	64:20 67:18
achieve 50:16	39:25 41:12	associations	41:15 48:14	call 11:13	Chen's 36:13
achieving	41:14 42:17	16:8	49:3 52:9,16	32:14 45:16	46:3 47:17
35:17	47:25 48:3,5	assume 6:6	57:3,6 67:18	called 28:19	47:20 58:14
ACKER 2:8	48:11 49:12	assumed 50:21	67:19 68:6	43:11 58:4	64:16 66:7
acknowledge	50:7,9 51:6	50:24	74:7,10,14	74:7	69:6
77:2	51:13,17	attach 51:3	Bernard 51:17	calls 22:5	Chief 19:17
Acrobat 29:9	52:7 53:2	attached 9:25	Bernie 7:7	58:15 65:18	choose 47:2
Act 28:9 50:7	55:5,8,15	46:16,17	best 43:25	campaign 5:1	circumstances
action 4:7	59:12 61:1	attend 26:21	beyond 33:5	19:24 20:2,3	4:25 43:16
78:18,19	64:22 69:10	27:10,20	34:21 51:10	30:24 31:18	75:7
actual 70:1	69:22 72:11	56:19,21	54:4	33:10,16	cited 54:1
add 52:13	72:15 73:1	attended 26:3	53:16	campaigns	cities 59:24
addition 49:12	73:16,21,23	26:10 27:12	bills 50:14	16:8,9 20:5,8	73:3
additional 10:2	Apologies	attending	binding 62:17	25:8 28:3	city 65:17,19
42:15 49:4	61:19	26:23	bipartisan	candidate 16:8	67:10,16
73:6	apologize	attorney 8:21	71:19	candidates	clarification
adjourn 75:5	51:23	8:23,25	bit 25:14	18:21 20:9	38:9 42:18
administer	appear 66:17	attorneys 8:9	blocks 47:21	Canvassers	49:17
78:9	APPEARANCES	34:4 78:19	blood 6:15	20:19	clarify 14:22
adopt 50:22	2:1	August 1:24	Board 20:18,21	capacity 1:13	26:6 29:21
adopted 54:18	appears 18:1	4:2 78:4,22	Bob 23:7,9,12	care 63:21	30:1 32:10
adoption 43:8	52:6	Austin 26:18	23:14 32:4	carried 29:23	classes 11:19
53:15 70:19	appendage	authored 23:25	56:13	30:5	25:3,4
advice 31:4	65:18	authorized	Bobby 30:6,21	case 6:6 9:10	clearly 5:16
advise 59:20	application	78:9	book 21:2,9,13	18:6 34:17	client 30:21
advising 23:4	24:6 39:24	AutoBound	65:15	34:18 37:13	clients 16:13
advocacy	41:12	74:7,13,16	bottom 9:11	52:10 54:1,2	Clinton 72:16
15:25 16:3	applied 28:8	avoid 17:18	69:14,15	58:20 59:7	73:10
affairs 15:17	39:10 55:9	aware 27:7,9	boundaries	cases 36:23	co-authored
15:25 25:8	61:1	61:7 72:9	59:1 65:16	caused 58:24	24:1
affect 44:7	apply 28:6,14	B	boundary	59:5	cobble 71:4
60:22 78:20	applying 29:11	back 5:17 7:18	48:17	Census 47:21	code 11:14
affiliates 16:1	39:18	13:18,21	branding 15:18	center 58:7	38:13,17
aforesaid 78:7	appointed	23:15 25:9	BRDAK 1:5	certain 20:24	collect 16:22
after-the-fact	20:18	28:25 36:7	break 6:11,12	35:25 63:2,2	17:5,8 42:14
55:13	apportionment	42:19 43:7	6:14,16	69:6	college 10:19
afterward	43:9 45:10	54:12 58:7	22:16 59:24	certainly 61:7	10:25 11:17
65:23 71:14	45:11 48:19	65:4	74:25	CERTIFICATE	11:18 24:12
agree 22:14	approach	Background	breaking 49:25	78:2	24:13,20
52:2,4	64:17	18:3	breaks 45:1	certify 78:4	Combat 17:2,3
agreed 75:4	approximately	bad 40:20	47:10 48:19	cetera 45:1	combination
agreements					47:5,6 62:11

combinations 66:15	71:15	40:4	counties 47:7	Daley's 21:2	74:3,4
come 61:10	concludes 58:14	consulting 15:21 16:3,6	58:21,24	Dan 45:23	depending 67:21
comes 66:21	conclusion 69:6,20	16:16	67:20	56:14	depends 67:21
commencing 4:4	conclusions 39:17,23	contains 67:6	counts 59:8	DANIELS 2:2	deposition 1:20 4:1,21
comments 64:16	46:13 54:17	context 35:19	44:25 47:10	dartboard 59:15	23:17 37:16
Commerce 32:2,12 57:2	conference 25:20 26:17	35:22	48:16,16,19	data 16:22,23	75:5,8 77:1
57:4,20	27:4,7,16	contiguity 59:10	49:10,25	17:2,3,5,7,10	78:4,14,16
Commission 31:23	conferences 27:20	continue 75:6	53:5 55:6	29:11,14,14	Deputy 19:9
committee 19:24 27:4	confess 46:24	contract 78:18	58:25 59:3,6	37:1 40:9,15	describe 7:3
27:12 31:8	configurations 55:25 66:16	contractors 16:19,22,25	59:22,24	40:17,18,22	15:14,20
31:18,24,24	configured 58:20	control 19:20	61:21 62:4	41:18 42:17	16:14 25:18
33:11,16	Congress 49:16	78:12	64:8,10	database 17:4	28:5 29:25
communicate 34:24	50:4,4 61:5	controlled 57:12,16	66:25 67:19	74:18	30:12,13
communicati... 35:9	62:13 63:9	controversy 78:6	67:24 68:5,7	dates 24:16	35:13 42:6
communicati... 19:9,17 42:2	63:23	convention-r... 31:3	68:9 70:18	Dave 56:13	described 9:22
42:14,20,25	congressional 7:12 21:25	conversation 41:16	70:20 71:24	David 21:2	26:7 32:11
Community 24:19	36:20 41:1	conversations 8:3 34:16	71:24,25	65:15	40:3 42:16
compactness 64:17,19,21	42:8,9 44:15	convicted 6:23	72:1,9,17,22	day 4:2 17:15	43:5
compare 22:24	47:5 48:18	copies 78:14	72:24 73:1,7	22:20 37:23	describes 21:22 58:23
compared 67:7	48:25 49:7,9	78:15	78:2,8	78:4,22	60:3
compel 53:12	49:14,22	Corporation 12:9,14,23	course 24:12	debated 44:6	describing 21:4 60:8
compensated 14:24	59:7,19	13:3,8 14:10	24:13 28:2	Deborah 2:23	65:16
Complaint 46:18	64:11 66:9	14:14,20,23	32:23 34:2	decide 62:7	DESCRIPTION 3:5
compliance 48:3 69:9,22	67:23 73:18	15:19 16:2,6	42:3 65:2	decided 7:25	desires 49:22
73:4	connected 43:8	16:10,15,18	courses 24:8	deciding 52:19	50:11
comprising 47:7	connection 9:2	18:7,11,24	25:5	decision 52:12	detailed 15:7
compromises 71:11,16	13:9 14:6	30:23 34:1	coursework 11:25	decisions 53:18	details 45:2
72:4	27:25 37:13	42:7	court 1:1,3	Defendant 1:14	65:12
computer 11:10 38:17	41:8 45:7	corporations 16:9	5:17 7:7 9:24	defense 34:21	determinant 39:25 65:13
40:17 60:2,7	consider 24:4	35:1 49:20	36:15,16,17	definition 35:15	determine 47:23 53:11
computer-ge... 60:4	37:21	52:8,9 59:10	51:7,10,18	degree 10:21	66:11
concentrating 35:24	consideration 52:15,20	60:11,13	54:1 58:22	10:22 11:2	determined 38:2 50:2
concern 65:1,6	53:23 62:22	67:9,15	Court-ordered 54:6	deliberately 51:19	54:7
71:1	considerations 62:20	69:24 78:11	courthouse 6:9	deliberations 71:13	Detroit 67:7,10
concerned 51:8	considered 49:21 58:9	corrected 47:9	cracking 36:2	delivered 37:11	67:16
61:24 66:12	consistent 54:1	76:2	craft 22:4	Democrat 18:21,22,25	devoted 42:8
concerning 24:8 25:16	56:16	7:6 9:22 10:4	create 38:11	56:19,21	DIANA 1:7
26:1,14 33:9	constraints 46:4	36:14 48:15	crime 6:23	61:13	DICK 1:8
71:8 73:14	consult 35:3	51:3,6,12	criteria 41:13	Democratic 73:12	Dickinson 2:13
78:6	40:1 44:2	54:6 58:22	41:14 42:17	Democrats 18:17,20	4:2
concerns 49:23	consultant 20:2	59:12 65:11	47:25 48:11	35:24 36:6	difference 47:23
50:5 51:4	consultants 18:22 34:1	corroborated 44:9	49:12 50:7,9	44:10,14	different 14:9
64:23	consultation 8:25	cost 78:13	50:18 52:7	57:23 62:3	19:13 22:7
conclude 21:12	consulted 36:24 37:5	Council 26:8,24	53:2,12 55:5	62:11 63:11	22:10 25:4
		counsel 32:5	55:15 59:11	63:21 71:24	28:14 39:12
		75:4	61:1,23	74:15	53:8,17
		Counselor 18:7	62:16 69:10	demonstration 46:16,25	55:10 56:1
		count 60:15	69:23 70:2,9	47:6,11,14	60:10
			72:15 73:1	68:4,6	diffusing 36:5
			73:16,21,24	departure 73:16,20	digits 9:14
			current 4:17,19	departures	direct 33:8
			12:7		34:15 71:13
			cycles 22:8,10		directing 51:13
			22:22 23:11		direction 78:12
			23:12 24:25		directly 22:6
			D		
			D 3:1		
			D.C 27:5,17		
			Daley 21:12		
			22:11 65:15		

30:17 55:20 74:22,23 Director 18:14 19:10,17,23 20:12 directs 50:10 discuss 47:19 discussed 27:21 43:14 43:16 discussion 44:22 discussions 71:13 district 1:1,1 21:23 22:1,5 29:10 39:11 41:2 48:18 49:4,13 50:13 59:9 64:3,7 66:2 districts 35:16 35:25 41:1 41:21,22 42:3,9,13 45:13,15,20 45:21,22 47:8 49:1,8,9 49:14 50:1 51:14,20,21 52:6,14,22 58:8,15,17,18 58:24 61:11 64:12,25 65:8,21 67:17,24 69:7,8,20,21 71:9 73:4,15 73:19,20 division 1:2 12:9,15 15:20 document 37:5 documents 9:24 35:5,7 36:12 37:9 doing 37:20 60:6 64:15 DONNA 1:6 Dr 36:13 37:19 38:7,20 46:3 46:9 47:17 47:18,20 58:14 60:2 64:16,20 66:7 67:18 69:6 draft 29:10 42:9 61:6 64:1 65:2 draw 60:18 64:1 74:5,8 drawer 45:16 drawers 48:1	59:20 drawing 22:5 35:16 42:8 45:14,18,20 45:21 50:12 52:13,15 55:21 drawn 49:19 55:1 58:8 62:2 63:7 65:5 69:9 70:4 73:20 drew 21:22 drive 39:22 driver 39:17 58:12 due 75:6 duly 4:8 78:5,9 dump 65:17 <hr/> E E 1:6,6 3:1 early 31:12 earned 13:8 EASTERN 1:1 editors 66:5 Edwards 12:8 12:10 14:5 15:15 16:1 effort 61:10 either 45:24 elect 62:3 elected 30:22 50:12 61:4 62:13 63:23 election 5:3 17:5 20:1 22:7 29:11 29:14 31:12 40:10 41:7 41:11 60:16 60:24 63:11 74:17 elections 61:15 ELLIS 1:6 Ellsworth 2:17 8:4,11 10:12 10:17 48:23 49:2 56:12 63:16 75:4 email 2:5,10,16 29:4 56:6 emails 7:8,14 8:24 9:1,5,16 9:19 45:6 employed 18:11 31:7 32:25 employer 12:7 14:1 enacted 36:23 41:6,20,23 42:12 44:11 47:10 66:24	67:4,5,14 68:1 69:21 72:6 enactment 44:15 energy 18:23 engaged 16:2 16:21 entire 59:6 entity 12:16,18 entries 15:12 equal 59:8 errata 76:1 77:3 error 60:9 estimate 8:20 13:13,14 et 36:15 45:1 55:8 72:10 event 27:10 everybody 44:12 exactly 40:22 examination 3:2 4:10 46:25 examined 46:8 examining 46:15 example 8:16 examples 68:8 71:8 Excel 29:5 excluding 67:6 Executive 20:12 54:15 exercise 5:12 exercises 23:3 exhibit 3:6 4:5 17:12,24 38:4 54:12 EXHIBITS 3:4 exist 28:24 existing 51:14 51:20,21 52:6,14 expect 63:21 63:25 experience 39:10,19 expert 3:6 9:25 17:25 23:16 23:20 34:6 34:11,12 35:2 36:7 37:17 40:2 41:9 45:25 46:2 47:1,19 51:4 54:13 55:13 experts 34:8 34:16,18,20 34:24 explain 38:14	58:12 explained 55:22 62:18 explore 25:9 express 35:16 expressed 38:4 extent 48:10 50:6 52:24 54:24 eye 65:9 <hr/> F fact 51:16 63:5 66:17 factor 51:21 53:3,11,24,25 factored 50:5 factors 53:17 53:21 54:4 58:19 61:25 FAEGRE 2:2 failed 51:11 fair 13:23 14:12 15:20 16:14 21:24 22:20 24:17 26:7 29:5 32:13,21 38:14 39:9 40:5 45:16 48:7 familiar 5:12 21:2 27:23 27:24,25 35:18 36:1 70:15 familiarity 39:24 FARRIS 1:6 February 31:13 feel 52:12 63:11,13 feelings 63:15 fewer 62:4 fewest 55:7 59:23 73:2 figure 54:24 67:9 68:22 File 1:3 final 36:9 50:1 finance 5:1 find 10:3 46:24 67:4 finish 63:16 finished 36:9 firm 16:16 first 4:8,21 17:14,21 18:15 22:17 47:7 58:11 69:5 78:5 firsthand 54:25 70:10 five 9:14 54:9	61:12 68:14 68:15,22 70:18 flattering 22:4 Floor 2:9 focus 54:13 focused 47:16 folks 31:11 follow 61:18 followed 9:14 70:10 73:24 following 72:15 follows 4:9 22:11 Footnote 74:19 force 25:21 foregoing 78:10 Forgive 19:5 form 58:24 formed 38:7 39:4 forming 41:20 four 10:14 23:17 61:13 Fred 56:13 Frequently 56:5 full 4:12 6:2 fully 58:13 funding 53:16 fundraising 15:22 16:4 16:10 further 66:10 69:12 <hr/> G G 1:7 garbage 65:17 garble 5:19 garbled 26:4 garner 72:5 general 5:14 22:24 32:5 generally 15:16 23:4 28:5 31:10 46:5 generate 64:12 generated 46:9 64:20 geographies 48:10 geography 63:3 gerrymander... 41:24 gerrymander... 35:14 get-togethers 26:1 give 8:20 19:14	give-and-take 54:20 given 4:23 66:12 go 8:11 10:2,19 19:8 25:9 43:5 54:12 goes 22:11 going 6:13,19 17:11,17 33:15 65:14 66:1 Good 4:12 GOODMAN 2:8 Googled 7:20 8:18 GOP 22:13 governor 20:18 20:20 graduate 11:4 Granholm 20:20 GRASHA 1:6 Gretchen 43:19 43:20 ground 5:14 group 32:10,12 32:17,19 57:10 grouping 58:23 72:24 groups 32:8,17 33:2 56:21 guess 29:25 45:15 46:16 48:4 49:17 50:5 59:8 guest 24:11,13 25:2 guidelines 28:5 28:10 guides 48:6 <hr/> H H 1:9 2:17 half 10:14 Hall 56:13 hand 17:11 78:21 happen 9:15 happened 25:10 62:7 70:11 happens 63:1 65:22 happy 8:6 51:24 53:7 harbor 48:1 hard 6:1 Harold 7:8 head 5:25 68:19 hear 5:15 6:20 heard 6:7 23:8
---	--	---	--	--	---

71:14 hearing 5:7 hearings 43:8 heavily 22:21 help 30:23 59:19 helped 31:2 hereto 78:18 Herrick 1:24 78:3,24 hierarchy 48:14 high 48:15 highest 11:16 Hillegonds 19:7 hired 19:3 33:25 history 74:17 hit 61:2 Hoag 7:8 51:17 HOLLIDAY 1:7 Hoosier 19:5 Hopefully 17:20 hour 6:14 hourly 13:17 14:17 15:5 hours 10:14 13:20 46:21 House 19:4 23:5 40:25 41:21,21 42:3,20,25 44:3 45:10 45:21,22 50:16 52:21 54:17 55:3 55:21,23 56:2 57:13 57:22 59:20 64:9 67:4 69:7,19 71:8 71:25 72:5 74:6 human 59:15	in-person 56:7 inaccurate 21:18 include 15:24 72:25 included 45:2 73:6 includes 52:20 including 67:10 incorporated 12:15,17,19 29:15 incorporation 48:9 incumbancy 62:21 incumbency 52:23 incumbent 50:4 53:6 incumbents 50:12 51:5 64:2 independent 16:19 INDEX 3:4 Indiana 2:4 Indianapolis 2:4 indicating 38:24 51:25 indicator 9:9 indifferent 57:11,15,20 61:3,7 individual 58:18 individuals 16:11 31:6 45:24 industry 28:3 information 7:20 19:14 33:14 42:15 44:7,24 69:1 informational 25:21,22 input 29:18,21 inputs 38:11,18 38:23 instance 33:20 67:3 70:16 71:3 instances 70:8 70:15 71:18 71:21,22 72:13 73:14 73:19 integrity 48:16 48:17,17 interact 30:4 31:17,22 interacted 23:13,14	30:6,9 31:15 interacting 30:7,19 interaction 32:4 33:8 interactions 29:22 30:14 31:6 32:1 interest 32:8 32:10,12,16 32:19 56:21 57:9 78:19 interested 19:16 78:18 international 10:23 interrupt 63:18 interview 21:4 21:7 introduced 43:18 introduction 43:17 70:17 inverse 36:5 invited 74:20 involve 66:14 involved 12:23 13:2,4 22:9 22:21 23:12 25:19 30:16 31:10,14 40:6 45:13 45:19,21 53:14 54:22 55:20 involving 7:6 36:14 Island 26:25 isolated 58:18 isolation 58:10 issue 5:1 15:25 16:3 20:8 issues 18:23 items 7:23,24 8:8,15 9:1 33:22	judges 6:6 July 30:8 June 7:5 36:10 37:11 43:19 44:4 Justice 36:18 65:10 justification 70:22 justify 55:14	large 39:10,14 largely 45:19 LASALLE 1:7 late 26:18 27:17 lawsuit 46:18 lawyer 11:8 lawyers 10:7 35:11 leader 19:5,18 19:19 30:1 71:2 leaders 23:6 29:23 Leadership 31:23 LEAGUE 1:5 legal 11:6 48:3 48:4 legislation 43:15 44:5 45:3 53:15 legislative 7:12 36:20 51:9 70:25 71:12 legislators 49:20 52:17 52:24 53:1 53:11,13,19 71:2 72:21 73:12 legislature 19:3 33:1 49:13 50:11 50:14,23 51:11 53:22 53:24 55:2 62:17 74:15 Legislatures 25:20 26:17 LeRoux 52:9 let's 14:4 18:2 25:13 32:21 38:14 54:12 73:18 level 11:16 Levin 7:7 36:18 65:10 license 52:13 limited 46:5 Linder 14:25 15:7 Linder's 15:3 lines 21:22,25 22:5 39:18 49:14,25 50:13 52:15 54:18,18,20 55:1,14,21 60:10,18,22 60:23 Lisa 64:6 list 17:10 37:5 68:15 71:21	listed 44:24 59:11 62:20 lists 17:4 litigation 9:3 34:7,9 little 25:9,14 58:13 62:15 Livingston 73:1,7 lobbying 30:12 30:16 long 1:8 10:11 20:15 48:1 53:6 look 17:16 21:19 40:10 41:3,7 48:5 55:4 56:1 58:17 65:9 65:13,21 66:6 looked 7:13 40:9,15,19,21 41:17 65:5,6 66:20 69:1 looking 39:2,11 39:18 45:4 55:25 60:2 looks 66:2 LORENZO 1:8 lost 71:6 lot 7:2 32:1 42:2 low 66:13 Lyons 64:6	
<hr/>						
I		J	K	L	M	
identified 34:7 identify 68:16 ignoring 64:17 immediately 71:14 impact 50:6 65:21 72:9 impacted 71:5 impacting 58:19 impair 6:20 impartiality 78:20 implying 67:13 important 48:13,13		J 1:5,6 JACK 1:6,7 James 10:25 January 31:12 Java 12:5 Jeff 8:22 56:12 Jeffrey 1:20 4:1,6,14 77:1 78:4 Joe 56:12 JOHNSON 1:12 JON 1:7 journals 23:23 24:2 44:3 Jowei 34:13 Judge 7:7	keep 63:24 Kelly 1:24 78:3 78:24 Ken 64:6 Kent 64:8,10 KETOLA 1:7 Kevin 2:6 Kevin.toner... 2:5 key 23:6 54:14 56:15 kid 17:20 kids 17:14 kind 12:3 16:7 16:13 17:22 kinds 17:7 Knapp 2:18 10:17 22:16 74:25 know 6:12 8:2 9:8,21 17:7 21:14 23:7,9 27:19 29:1,8 30:2 32:18 34:4,11,18,19 34:20 37:2 38:17 40:16 47:17 60:5 63:13 64:8,9 65:11,18 67:12 69:1 70:21 72:7,7 74:5,8,12 knowledge 54:25 70:1 70:11 known 9:10 32:3 Kyle 51:17	known 9:10 32:3 Kyle 51:17	L L 1:7,7 LaBrant 23:7 32:4,5 56:13 Lambert 12:8 12:10,12 14:5 15:15 16:1 Lansing 2:15 4:4,20 22:12 22:17 24:19 78:5	M M 2:6,23 Macomb 71:25 72:17,22 Madison 10:25 main 39:25 major 10:24 majority 19:18 19:18 23:5 62:12 67:7 71:2,3 making 17:15 53:6,18 58:6 man 21:22 Managing 18:14 manipulate 49:13,18 manual 36:24 40:18,22,25 41:4 map 43:18 45:16 46:16 47:6,11,11 48:1,2 58:12 59:20 61:6 62:2 63:22 66:9 68:4

map-drawing 55: 18	meeting 26: 18 26: 21, 23	78: 9	noted 77: 3	37: 17 38: 4	26: 13 27: 3
maps 7: 13	meetings 25: 16, 19, 22	minutes 54: 9	notes 78: 11	39: 4 41: 20	54: 19
29: 10 36: 21	25: 22 26: 14	miscount 67: 24	noticed 78: 13	44: 8 47: 1, 13	participated 10: 16 56: 11
36: 22, 23	27: 13 56: 8, 9	68: 5, 7, 9	number 3: 5	49: 22	participation 70: 3
37: 18 39: 12	56: 17, 24	miscounted 66: 8 67: 18	9: 11, 11	opportunity 21: 8	parties 32: 22
39: 20 41: 17	member 63: 9	67: 19	31: 15 46: 2	opposed 38: 22	32: 22 61: 17
42: 16, 25	members 31: 17, 22	miscounting 66: 22	47: 10 53: 19	47: 21 71: 19	78: 14, 18, 19
45: 18 46: 6, 9	49: 15, 23	misrepresen... 66: 23	59: 5, 21, 22, 23	order 45: 25	partisan 35: 13
46: 11, 17, 25	50: 3, 4 52: 21	missed 47: 15	64: 9 66: 13	49: 15 50: 3	35: 17 57: 6, 8
47: 14, 18	64: 9 74: 22	missing 59: 15	66: 23 67: 16	50: 22 53: 13	58: 1, 15
52: 13 55: 24	74: 23	model 38: 12	72: 9 73: 3	ordered 78: 14	62: 25 69: 7
55: 24 56: 3	memo 51: 16	money 14: 13	numbered 51: 23	ordering 51: 11	71: 17 73: 25
61: 20 63: 7	memory 37: 8	30: 24 31: 1	numbers 9: 17	organization 26: 8 32: 2, 6	partisans 63: 4
64: 1, 19	42: 1 43: 23	monthly 15: 6	61: 16 65: 3	57: 7, 9 58: 1	party 20: 13
66: 19 68: 6	44: 9	morning 4: 12	numerous 25: 22 44: 10	organizations 16: 7, 12	29: 19, 22
70: 1, 6 74: 6, 9	mention 17: 13	moved 51: 10	44: 14	18: 25 25: 25	30: 1, 10, 22
Maptitude 28: 19, 24	47: 2	moving 71: 1	O	26: 9 33: 6	31: 13 32: 16
29: 3, 12, 15	mentioned 33: 3 36: 15	MRRRI 32: 3	oath 78: 9	56: 23	33: 4 57: 12
74: 13	46: 10 52: 10	multiple 22: 22	observers 65: 8	organize 16: 22	57: 16 58: 3
March 26: 18	70: 18 72: 11	municipal 45: 1	65: 12	17: 5, 8	78: 13
Mark 2: 11	73: 10	48: 17 55: 6	obviously 59: 10	original 78: 13	pass 49: 24
18: 10	Meridian 2: 3	59: 22 66: 8	occasion 44: 21	outcome 35: 17	50: 22
marked 4: 5	methodology 39: 8	66: 13, 21	occasions 25: 4	78: 18	passage 44: 4
17: 11	Michigan 1: 1, 5	67: 1, 6, 8	35: 3	outliers 58: 15	44: 10 51: 9
marketing 15: 17	1: 13 2: 9, 15	72: 10	occupy 63: 1	69: 7	52: 17, 25
Marquardt 35: 1 41: 16	4: 4, 18, 20	Murley 56: 13	occur 5: 4 21: 6	outside 34: 1	passing 50: 14
43: 11 44: 18	7: 11 9: 23	N	56: 9, 17	overall 69: 20	Paul 19: 7
45: 9, 13, 16	10: 20, 25	N 2: 3 3: 1	occurred 21: 7	overt 63: 5	pdf 29: 8
56: 14 60: 6	12: 20, 24	name 4: 13	59: 25 72: 19	Oz 22: 12, 17	Pellsworth@... 2: 16
material 7: 2, 3	13: 4 14: 7, 12	names 25: 5	offer 48: 4	P	people 19: 13
materials 37: 12	14: 21 17: 1	34: 20	office 4: 19	packing 35: 18	31: 15 60: 5
math 11: 18	19: 3, 9 20: 12	national 25: 15	63: 2	page 3: 2, 6 5: 14	perform 61: 9
mathematic 38: 13	20: 18 21: 10	25: 19 26: 7	Office-related 29: 7	9: 12 18: 2	performed 48: 8
mathematics 11: 17 12: 3	24: 18, 19	26: 14, 17, 24	official 1: 12	21: 21 22: 11	periods 39: 12
matter 5: 5, 7	29: 19 31: 20	27: 3, 12 31: 7	Oh 45: 17 69: 12	23: 15 51: 22	41: 3
20: 25 24: 9	32: 2, 7, 11, 16	31: 13, 18	69: 15	54: 14 58: 7	permitted 53: 22
25: 7, 23 78: 6	33: 4, 9 36: 16	33: 10, 16	okay 5: 17 6: 3, 9	59: 14 62: 15	person 63: 1
78: 11	36: 17, 19, 24	necessary 73: 3	6: 16, 17	66: 7 67: 5	Personal 18: 3
mattered 52: 24	40: 18, 21, 24	73: 8	14: 12 17: 21	69: 4, 13	persons 78: 19
matters 30: 8	41: 21 42: 3	need 6: 13	17: 22 22: 24	74: 19	perspective 59: 18
31: 3	45: 10, 11, 22	21: 19 38: 2	27: 10, 16, 20	Page/Ln 76: 2	Peter 2: 17
Mbrewer@go... 2: 10	50: 10 51: 7	needs 50: 14, 22	30: 18 39: 22	paid 14: 1	phone 2: 4, 10
MCDs 55: 7	53: 1 56: 2	neutral 62: 19	40: 12, 13	paper 9: 13	2: 15 17: 16
McMaster 45: 23 56: 14	57: 2, 3, 13, 17	62: 22, 24	41: 7 42: 12	34: 13 36: 13	pick 53: 9
mean 21: 5	57: 19, 21	63: 11	43: 2 45: 18	papers 23: 25	pieces 9: 13
29: 21 32: 15	61: 12 63: 10	never 23: 8, 16	47: 13 52: 1	24: 1 40: 5	pill 6: 15
32: 19 35: 21	65: 25 72: 5	new 39: 4	53: 5, 10 59: 2	paragraph 18: 16 19: 2	Pischea 18: 10
35: 22 36: 4	74: 6, 9, 11	news 28: 2	61: 1 67: 2	58: 8 59: 14	pitted 64: 2, 13
38: 11 40: 3	78: 5	newspaper 7: 14, 15, 18	69: 15, 15, 16	part 8: 25 15: 23	placate 50: 3
49: 18 53: 4	Michigan's 21: 23 22: 13	8: 17 66: 2, 4	69: 19 70: 5	16: 19 17: 8	place 27: 1
62: 23 63: 18	Microsoft 29: 7	nods 5: 25	70: 14 71: 21	32: 9 34: 24	places 46: 2
74: 14	Mile 2: 8	non-partisan 56: 23 57: 4	72: 18 73: 14	39: 14, 16	placing 48: 15
means 36: 5	mind 48: 12	71: 20	old 4: 15	50: 2 65: 18	Plaintiffs 1: 10
medications 6: 18	53: 5 62: 21	notary 2: 23	ones 72: 23	70: 21 71: 11	2: 6, 12 34: 21
	minimize 61: 22	77: 10 78: 8	operations 15: 15	71: 12	Plaintiffs' 46: 17
	minimized 61: 21	78: 25	opinion 38: 7	participants 56: 16, 16	plan 42: 20
	Minnesota 78: 1	note 47: 20	48: 4 69: 5, 16	participate 10: 6 25: 15	48: 23 49: 5, 5

50:22 51:11 52:25 53:13 54:7 59:7 63:8 67:4,6 67:22 70:19 70:20 71:5 72:6,25 plans 41:6 43:9 44:11,15 49:24 52:18 55:4 59:19 59:19,21 65:3 66:24 67:8,14 68:1 72:8 74:19 74:21 playing 60:6 please 4:13 6:11 14:22 26:6 30:1 32:10 69:2 PLLC 2:13 plural 46:17 point 22:20 38:14 58:16 62:16 65:8 points 54:14 69:4 policy 10:22 25:8 political 15:21 15:21 16:3,4 16:16 19:23 32:22 53:21 57:12,16 58:3 politics 28:3 54:2 Pontiac 65:17 65:19 population 29:11,14 37:1 40:18 40:22 41:1 41:18 42:16 59:8 60:15 60:19 73:5 populations 41:5 Portland 4:18 positions 50:1 possible 48:10 Possibly 15:13 postcollege 11:25 potentially 71:6 predominant 28:10 preparation 35:4 42:21 45:5 70:7 prepare 6:25 10:7 15:7,12	38:3 45:25 prepared 17:25 23:19 40:2 46:7 preparing 29:10 34:23 41:8 44:19 46:22 65:2 prepping 37:16 present 2:23 preservation 51:20 52:5 52:14 preserve 51:14 preserved 68:21 preserving 51:20 pressure 6:15 previous 54:5 previously 12:15,17 primarily 45:19 primary 39:17 48:7 52:15 prior 8:1 23:17 23:20 24:21 24:23,24 25:14 26:1 26:10,13 27:21 46:22 60:15 priority 48:16 prism 55:5 60:1 probably 5:12 8:23 29:8 31:24 problem 17:18 process 22:22 28:4,12 48:6 55:19 56:3 57:5 58:23 60:3 61:20 61:23 65:8 65:13 70:4 70:25 71:12 processed 38:18 produce 59:18 59:21 61:12 61:20 62:10 produced 9:2,6 9:10 47:18 62:6 product 28:19 28:21 37:19 products 28:17 29:7,8 programming 11:10 Project 27:21 27:23 promise 22:19	proposal 63:12 64:12 proposed 55:1 56:2 62:5 63:22 64:24 provide 6:21 33:18 35:5,7 provided 8:9 33:23 52:12 Providence 26:25 provides 16:6 16:10 providing 59:8 public 7:21 10:22,22 15:17,17,25 20:25 25:8,8 58:4 65:22 65:24 74:20 74:22,23 77:10 78:8 78:25 publication 36:25 publicly-avai... 39:11 published 21:9 23:23 purchased 74:11 Purdue 17:21 17:22 purpose 35:16 pushed 65:4 put 13:20 26:9 putting 34:25 35:10,23 40:6 41:16 43:12	78:14 Rd 2:8 reaction 66:1 read 5:16 7:2,5 7:6,8,11,13 7:18,21 21:16 77:1 reading 78:16 ready 40:11 realm 7:21 reason 5:21 6:12 74:12 76:2 reasons 71:17 73:25 recall 5:6 7:10 9:15,18 13:12,17,19 13:20 14:17 15:2,3,5 16:25 21:16 21:19 24:16 25:5 26:12 26:23 27:9 27:13,14 28:15,23 30:7 31:1,2 32:23 33:4,7 33:13,19,22 33:25 34:5 35:9 37:10 43:24 44:12 44:17 50:8 51:15 62:14 64:15 68:18 72:14,23 73:15 receive 10:21 29:18 74:21 recess 54:10 75:3 recessed 75:9 recognize 17:24 65:7 recollection 7:16,17 27:2 27:18 43:25 record 6:1 17:19 20:25 records 44:19 redistricting 7:13 12:24 13:5,9 14:7 14:13,21 15:8 17:1 22:9,10,22,25 23:3 25:16 25:21,24 26:1,2,10,14 27:4,15,16 28:4,11,20 29:3 30:8,15 30:19 31:9 31:19 32:9	32:24 33:9 34:3 35:23 36:21,22 37:1 45:7 57:5 59:17 61:24 REDMAP 27:21 27:23 refer 22:19 38:24 46:3 60:13 71:22 reference 46:24 47:4,8 48:14 65:7 referenced 37:2 67:17 references 65:10 67:3 referring 17:19 38:12 42:24 47:9 62:24 69:11 refers 62:25 67:9 refresh 7:15 regard 31:19 regarding 25:23 36:25 42:25 43:17 related 5:1 7:12 26:9 28:2 30:10 31:9 36:19 36:20 37:1 41:5 44:4,4 55:3 72:10 78:17 relates 24:6 relation 42:21 43:3 relations 10:23 15:17 58:5 65:22,24 rely 41:19 42:13 relying 54:21 remember 33:20 reminded 5:24 renewable 18:23 rephrase 8:5,6 report 3:6 7:5 8:24 9:25 17:25 18:9 19:12 23:15 23:20 34:11 34:12,19,23 35:4,10 36:7 36:10,13 37:11 38:25 39:5,8 40:2 41:9,17 42:22 43:4	43:12 44:19 45:25 46:2,3 46:5,22 47:16,17,19 51:4 54:13 54:21 55:13 58:14,16 65:7 66:21 67:5 70:7 71:23 72:12 reported 78:4 reporter 5:17 reporters 66:4 reports 15:7 represent 21:21 37:4 representati... 52:22 56:19 56:24 57:13 57:22 61:13 61:14 64:5 64:14 71:23 representing 63:2 Republican 16:15 19:4 19:24 20:5 20:13 27:3 27:12 29:19 31:7,18,23 32:16 33:4 33:10,16 49:15 50:3 63:9 64:2,13 Republicans 18:17 19:20 20:9 33:1 35:23,24 36:6 57:21 61:3 62:4 63:23 72:4 73:11,13 74:15 request 44:20 requested 33:14,21 72:21 73:11 73:13 require 6:1 required 55:8 59:13 requirement 64:21 73:5 requirements 64:17 requires 73:2 reschedule 75:6 research 10:3 residence 4:17 responsible 22:7 result 7:22 resulted 60:23
--	--	---	---	--	---

<p>resulting 66:16 results 41:7,11 60:12,14,16 60:24 retain 63:10 Returning 73:9 revenue 13:8 14:5,10 review 9:19 21:9 36:12 38:6 70:6 reviewed 7:23 8:8,15 9:1,5 34:12 36:8 36:13,14,18 36:21 37:12 37:18 38:22 46:10 68:12 68:13 reviewing 9:16 69:25 revision 38:3 Rhode 26:25 Richard 1:8 rides 17:15 right 5:17 6:13 11:8 12:12 14:2 18:2 21:8 23:10 27:11 31:24 32:3 34:13 37:7 39:15 40:7 42:23 47:12 60:16 60:19 61:8 64:23 66:11 69:23 Rights 28:9 50:7 RIVERA 1:8 RNC 31:16 road 53:16 ROGER 1:5 role 13:1 19:25 22:25 23:1 25:11 30:22 34:5 55:3 59:18 60:6 61:8,20 roles 19:15 ROSA 1:7 rough 8:20 rudder 48:5,7 rule 59:2 rules 5:14 run 63:4 RUTH 1:12</p> <hr/> <p>S</p> <p>S 2:14 4:3 safe 48:1 satisfy 49:15 61:22 saw 55:10</p>	<p>saying 51:18 says 4:9 22:6 52:3,4 67:5 school 17:15 Schostak 30:2 30:20 Scott 2:18 SEAL 78:21 seat 63:10 seats 63:24 second 2:9 62:15 65:4 73:9 Secretary 1:13 2:18 see 7:20 9:13 11:2 17:14 18:3 45:6 54:15 55:5 56:9 60:12 64:11 66:1 69:13,16 seemingly 66:13 selected 7:24 8:8,16 Senate 19:9,20 19:24 23:5 40:25 42:12 43:6 44:3 45:11,20 50:17 54:18 55:4,23 57:17 59:20 70:19 72:2 72:13,24 73:15 74:9 Senator 43:21 senators 72:21 send 56:23 Senior 18:7 sense 5:20 24:5 26:5 54:22 sent 7:8 sentence 18:15 20:11,17 separate 12:11 12:16,17 44:21 served 20:11 services 16:7 sessions 10:6 set 9:24 59:3 sets 58:9,21 shakes 5:25 Shannon 10:18 shapefile 37:18 shapefiles 33:20 38:6 39:3 46:11 shapes 64:24 65:13 share 55:23,23</p>	<p>shared 56:3 sheet 76:1 77:4 shifted 59:23 shifting 55:7 73:2 show 6:1 40:25 51:24 showed 44:11 showing 15:8 side 34:21,21 Signature 77:8 signing 78:16 similar 23:2 25:12 simulated 67:8 sitting 6:8 37:21 six 70:20,23 Sknapp@dic... 2:16 small 9:11 software 28:17 29:2,4,12,15 60:20 74:5,8 74:16 somebody 35:1 son 11:13 sorry 30:25 40:11,14 69:12 75:1 sort 15:14 16:11 17:3 30:18 31:10 47:25 source 38:17 sources 37:5,9 SOUTHERN 1:2 Southfield 2:9 speak 6:16 speaker 24:11 24:13 25:2 Speakers 23:5 Special 19:4 specific 24:16 32:17 38:12 58:14 specifically 44:11,24 specifics 21:20 33:19 spelled 44:25 spent 15:8 37:20 38:16 46:15 spin 58:5 split 61:17 67:8 72:16,19 73:10,11 splits 44:25 45:1 66:8,13 66:22,23,25 67:1,6,10,13 67:18,19,25 68:5,7</p>	<p>Square 2:14 4:3 stack 8:21,22 staff 19:18 23:6 32:25 stand 47:9 standards 24:7 28:6,9,10,14 39:25 48:5 start 18:2 32:21 started 17:20 state 1:13 2:18 4:12 10:20 10:25 20:19 24:18 25:20 26:17 30:22 31:23 33:1 36:24 43:21 59:6 62:15 64:9 66:7 69:8 71:25 74:11 78:1,9 stated 51:17 States 1:1 52:21 57:22 61:4 statistics 11:19 11:23 12:1 statute 50:20 50:21,25 59:12 62:20 statutes 7:11 7:11 8:24 36:18,19 50:10 52:7 54:5 stenographic 78:11 Sterling 12:8 12:14,23 13:3,8 14:10 14:14,15,20 14:23 15:19 16:2,6,10,15 16:18 18:7 18:11,18,24 30:23 34:1 42:7 Steve 14:25 straightfaced 48:2 strange 65:9 65:14 66:17 Strategic 31:4 Street 2:3 strict 72:14 strictly 62:17 70:9 73:24 Stuckey 10:17 56:12 studied 11:17 study 11:18 studying 38:16</p>	<p>subject 24:9 25:7,23 submission 66:20 submitted 24:1 subsequent 39:2 66:20 70:6 subsidiary 12:11 substantial 13:23 69:9 69:22 78:20 substitute 43:18 44:23 70:17 Suite 2:3,14 4:3 Summary 54:15 supplement 38:3 support 71:5 72:5 Supreme 9:23 36:15,16,17 51:7 58:22 sure 5:13 7:17 8:5 13:16 17:16 21:1 29:6 32:15 34:8 36:8 39:7 45:15 sworn 4:8 78:5 sympathetic 17:20</p> <hr/> <p>T</p> <p>tables 40:24 take 11:19 12:11 13:3 27:1 50:11 50:15 53:22 53:24 54:8 74:25 taken 1:24 4:1 54:10 75:3 takes 50:15 62:23 talk 14:4 45:9 45:24 62:19 talked 44:18 talking 7:4 21:15 37:15 51:5 65:25 66:25 67:1 68:22 69:19 74:1 talks 59:14 task 25:21 taught 24:8 tell 4:25 5:22 6:13 11:16 18:19 43:22</p>	<p>60:20 78:5 Ten 2:8 tendency 78:20 tendered 36:9 tenuous 71:3 term 35:18 36:1 terms 5:14,19 15:19 22:4 22:24 29:10 37:16 40:9 40:15 41:3 42:12 48:12 54:17 60:14 60:15,23 67:23 72:13 Terri 35:1,3 43:11 44:18 56:14 60:6 test 37:8 testified 5:8,10 23:16 testifies 4:9 testify 43:7 testifying 8:1 testimony 7:1 57:25 58:2 text 17:14 texts 17:23 Thank 10:19 11:2 49:2 thanks 6:14 thereof 78:9 thing 6:19 44:2 things 21:17 30:10 think 5:24 25:3 28:24 33:8 39:3 40:16 40:20 41:11 50:21 53:1 56:7 57:11 57:15,19 59:16 62:18 73:13 74:4 thinking 71:19 thought 42:24 47:4 thousand 64:19 three 10:13 22:7,9 25:2,4 69:4,13 thumb 59:2 time 5:15,19 7:25 13:24 15:8 16:21 16:21 18:25 19:21 27:14 37:20 38:16 39:12 41:3 43:21 46:4 46:15,19 63:6 70:4,21</p>
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71:6 timeline 43:14 43:17 timing 44:1 Timmer 1:20 4:1,6,14,15 8:22,23 9:14 22:12 54:12 77:1 78:4 title 18:6,13 titled 54:14 TLAIB 1:9 today 5:14 7:1 9:13 10:7 told 25:11 33:15 41:15 Toner 2:6 3:2 4:11 8:5,7,14 10:15 22:18 48:25 49:6 54:8,11 63:17 68:25 69:3 75:2 top 18:3 68:18 topics 26:9 totally 17:19 Township 72:16 73:10 townships 59:24 73:3,6 track 60:14,17 tracts 47:21 trade 16:8 33:6 training 11:6 11:11 12:5 25:15 transcribed 78:12 transcript 77:2 78:10,11 Treatise 40:3 treatises 40:1 40:5 tremendous 71:1 trial 5:4,4,10 23:16 60:9 tried 28:6,7 55:14 61:2 true 28:11 78:11 trump 53:2 truth 78:6,6 truthful 6:21 try 17:18 51:13 61:10 trying 37:8 54:24 60:10 61:18 turn 73:18 two 24:25 35:2 42:18 53:8 64:2,13 73:6 73:7	typo 67:12 <hr/> U Um-hmm 5:18 18:5 43:13 69:18 undergraduate 11:23 understand 5:21 36:8 39:7 49:21 65:20 understanding 60:8 70:8 72:18,20 understandi... 71:10,16 72:3 understood 6:7 undiscovered 66:15 unfamiliar 66:15 unforeseen 75:6 unfounded 69:8 United 1:1 52:21 57:22 61:4 University 10:20 11:1 24:18,18 use 5:19 16:18 28:17,21 29:2 41:25 <hr/> V v 1:11 variety 30:10 various 29:6 vary 67:21 verification 36:25 versed 65:12 version 67:22 versions 55:24 62:14 versus 25:10 47:11 view 47:25 71:7 violation 58:25 virtue 78:9 VOLUME 1:21 vote 44:14 52:19 53:15 voted 44:6,10 52:17 63:6 Voter 17:10 voters 1:5 65:25 votes 49:24 50:16	voting 28:9 50:7 52:25 53:20 VTDs 47:21 <hr/> W W 1:8 2:8 wait 40:11 waived 78:16 want 6:11,15 17:23 25:9 36:7 39:7 42:18 53:10 53:12 54:13 wanted 52:19 Washington 2:14 4:3 27:5 27:8,17 78:2 78:8 Washtenaw 72:1,25 wasn't 32:15 61:8,25 63:15 71:6 watching 17:13 way 6:8 12:24 39:21 49:19 55:10 56:1 60:17 Wayne 71:24 71:24 72:1 we'll 6:12 17:18 75:5 we're 5:13 21:14 we've 8:3 33:3 weeds 25:13 week 17:21 37:25 weekly 56:18 went 29:12 38:23 39:8 53:18 weren't 51:8 55:20 73:22 whatsoever 40:1 wheels 70:25 Whitmer 43:19 43:20 44:22 70:17 WILLIAM 1:6 withdraw 40:19 witness 4:7 8:2 8:13 10:13 48:24 49:3 78:5,21 witnesses 34:7 wizard 22:19 wizards 22:13 WOMEN 1:5 wondering 34:15	word 61:8 words 55:12 work 11:4 13:18 14:1,7 14:14,15,18 14:23 15:4 15:12 16:11 16:19 17:3 18:19,21 23:10,22 28:8,18 29:3 29:20,23 30:5,12,17,18 31:10 32:8,9 32:24 34:2 37:19 38:23 39:2 42:7 48:8 65:3 66:10 worked 14:20 14:22 16:25 18:16,22 19:8 32:25 33:13 34:6 working 32:23 33:25 35:14 worth 7:25 wouldn't 53:14 Wright 2:13 4:3 write 18:16 19:2 <hr/> X X 3:1 <hr/> Y yeah 32:5 48:24 53:25 59:10 60:21 65:2 year 17:21 36:10 42:7 years 23:18 39:10 61:5 61:14 Yonker 64:6 <hr/> Z Zero 14:8 <hr/> O <hr/> 1 1 51:16 1,000 46:6 68:8 10 8:23 61:5,14 62:3 74:19 11 49:11 11th 70:24 12 49:4 13 49:4	14 49:7,9 67:7 142 3:6 4:5 17:12,24 23:20 54:12 148 53:17 14th 21:23,25 150,000 14:16 17000 2:8 1982 7:6 36:14 48:15 51:5,8 51:16 54:6 58:21 65:10 1989 11:3,4 1991 19:3 1992 9:22 36:22 41:6 1997 19:11 1998 5:3 20:1 1999 12:21 1st 27:8 <hr/> 2 2 74:19 2:17-cv-141... 1:3 20 50:16 200 2:14 4:3 14:19 2001 12:24 13:9,10,12,18 13:19,21 23:1,11 24:21 25:10 25:14 26:2 26:11 28:4 28:21 36:22 41:6 45:3 48:18,21 52:9 2005 20:14 2009 20:16 27:2 2010 26:19 27:2,5,18 2011 13:4 14:4 14:8,12 15:4 15:10 17:1 18:20,22 20:24 22:25 23:11 24:23 25:10 26:13 27:21 28:11 28:15,18 29:3,16,18,24 30:4,8,20,21 31:8,12,19 32:4,9,24 33:9 34:2 36:22 41:5 42:4,13 43:1 43:7,19 44:16 45:4 45:14,18 49:5,7 54:19	56:4 57:4 59:17 61:24 64:3 70:16 74:6,9 2012 20:24 2018 1:24 4:2 78:5,22 215 2:14 4:3 22 1:24 22nd 4:2 78:4 24 67:6,8,13 248.483.5000 2:10 2700 2:3 27th 78:21 29th 27:8 <hr/> 3 300 2:3 317.237.0300 2:4 <hr/> 4 4 3:2,6 18:2 23:15 40 67:5 46204-1750 2:4 48075 2:9 48933-1816 2:15 <hr/> 5 5 54:14 58:7 61:17 62:3 51 4:16 517.487.4710 2:15 56 50:16 <hr/> 6 6 62:15 <hr/> 7 7 66:7 69:4 71 21:21 72 22:11 <hr/> 8 8:30 4:4 <hr/> 9 9 61:17 9/5 61:17 9:47 75:8 90 8:23
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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 LEAGUE OF WOMEN VOTERS OF
5 MICHIGAN, ROGER J. BRDAK,
6 FREDERICK C. DURHAL, JR., JACK E.
7 ELLIS, DONNA E. FARRIS, WILLIAM
8 "BILL" J. GRASHA, ROSA L.
9 HOLLIDAY, DIANA L. KETOLA, JON
10 "JACK" G. LASALLE, RICHARD "DICK"
11 W. LONG, LORENZO RIVERA, and
12 RASHIDA H. TLAIB,
13 Plaintiffs,
14 -v- Case No.
15 2:17-cv-14148-DPH-SDD
16 RUTH JOHNSON, in her official
17 capacity as Michigan Secretary of
18 State,
19 Defendant.

20 The Continued Deposition of JEFF TIMMER, taken
21 before Ms. Suzanne Duda, CSR-3199, RPR, CRR, Notary
22 Public, at 215 South Washington Square, Suite 200,
23 Lansing, Michigan, on Wednesday, August 29, 2018,
24 commencing at 9:05 a.m.

25 APPEARANCES:

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33 Appearing on Behalf of Plaintiffs

Deposition of Jeff Timmer Vol. II - 8/29/2018

League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 80			Page 82		
1	APPEARANCES, CONTINUED:		1	INDEX OF EXHIBITS, CONTINUED	
2	MR. MARK BREWER (P35661)		2	EXHIBIT	PAGE
3	GOODMAN ACKER, PC		3	Deposition Exhibit Number 150	168
4	17000 West Ten Mile Road		4	(3/5/11 Email Chain and Attachment,	
5	2nd Floor		5	Timmer000346 - Timmer000349)	
6	Southfield, Michigan 48075		6	Deposition Exhibit Number 151	173
7	(248)483-5000		7	(3/8/11 Email with Attachments, Timmer000958 -	
8	mbrewer@goodmanacker.com		8	Timmer000972)	
9	Appearing on Behalf of Plaintiffs		9	Deposition Exhibit Number 152	174
10	MR. PETER H. ELLSWORTH (P23657)		10	(3/23/11 Email Chain, Timmer000344)	
11	DICKINSON WRIGHT, PLLC		11	Deposition Exhibit Number 153	177
12	215 South Washington Square		12	(4/5/11 Email, Timmer000655)	
13	Suite 200		13	Deposition Exhibit Number 154	180
14	Lansing, Michigan 48933-1888		14	(4/22/11 Email and Attachment, Timmer000962)	
15	(517)371-1730		15	Deposition Exhibit Number 155	182
16	pellsworth@dickinsonwright.com		16	(5/2/11 - 5/3/11 Email Chain and Attachments,	
17	MR. SCOTT R. KNAPP (P61041)		17	Timmer000058 - Timmer000063)	
18	DICKINSON WRIGHT, PLLC		18	Deposition Exhibit Number 156	184
19	215 South Washington Square		19	(5/9/11 Email Chain and Attachments)	
20	Suite 200		20	Deposition Exhibit Number 157	187
21	Lansing, Michigan 48933-1888		21	(5/11/11 Email Chain, Timmer001077 -	
22	(517)487-4762		22	Timmer001078)	
23	sknapp@dickinsonwright.com		23	Deposition Exhibit Number 158	190
24	Appearing on Behalf of Defendant		24	(5/11/11 Email Chain, Timmer000066 -	
25			25	Timmer000067)	
Page 81			Page 83		
1	TABLE OF CONTENTS		1	INDEX OF EXHIBITS, CONTINUED	
2	WITNESS: JEFF TIMMER	PAGE	2	EXHIBIT	PAGE
3	Examination, Continued by Mr. Toner	87	3	Deposition Exhibit Number 159	196
4	Examination by Mr. Ellsworth	256	4	(5/13/11 Email and Attachments, Timmer001046 -	
5	Further Examination by Mr. Toner	268	5	Timmer001054)	
6	* * * * *		6	Deposition Exhibit Number 160	198
7	INDEX OF EXHIBITS		7	(5/12/11 - 5/16/11 Email Chain, Timmer000043 -	
8	EXHIBIT	PAGE	8	Timmer000044)	
9	Deposition Exhibit Number 143	118	9	Deposition Exhibit Number 161	201
10	(The Sterling Company Invoices)		10	(5/17/11 Email Chain, Timmer000392)	
11	Deposition Exhibit Number 144	151	11	Deposition Exhibit Number 162	205
12	(12/22/10 Memo to Bob LaBrant From Jeff Timmer		12	(5/16/11 Email Chain, Timmer000150 -	
13	and Steve Linder, Timmer000415 - Timmer000420)		13	Timmer000151)	
14	Deposition Exhibit Number 145	159	14	Deposition Exhibit Number 163	211
15	(12/22/10 Email, Timmer000747)		15	(5/17/11 Email Chain and Attachment,	
16	Deposition Exhibit Number 146	160	16	Timmer000115 - Timmer000116)	
17	(Maps, Timmer000083 - Timmer000088)		17	Deposition Exhibit Number 164	214
18	Deposition Exhibit Number 147	162	18	(6/17/10 - 5/17/11 Email Chain and Attachment,	
19	(County Commission District Map of Oakland		19	Timmer000781 - Timmer000782)	
20	County, Timmer001043)		20	Deposition Exhibit Number 165	217
21	Deposition Exhibit Number 148	163	21	(5/17/11 - 5/19/11 Email Chain, Timmer000794 -	
22	(1/24/11 Email Chain, SENATE0005009)		22	Timmer000798)	
23	Deposition Exhibit Number 149	164	23	Deposition Exhibit Number 166	220
24	(2/21/11 Email Chain and Attachments,		24	(5/24/11 Email Chain, Timmer000225)	
25	Timmer001088)		25		

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 84			Page 86		
1	INDEX OF EXHIBITS, CONTINUED		1	INDEX OF EXHIBITS, CONTINUED	
2	EXHIBIT	PAGE	2	EXHIBIT	PAGE
3	Deposition Exhibit Number 167	221	3	Deposition Exhibit Number 184	247
4	(6/2/11 Email Chain, Timmer000262)		4	(6/20/11 - 6/21/11 Email Chain, Timmer001107 -	
5	Deposition Exhibit Number 168	223	5	Timmer001108)	
6	(6/2/11 Email and Attachment, Timmer000845 -		6	Deposition Exhibit Number 185	249
7	Timmer000846)		7	(6/28/11 Email)	
8	Deposition Exhibit Number 169	224	8	Deposition Exhibit Number 186	249
9	(6/2/11 Email Chain and Attachment)		9	(7/14/11 - 7/15/11 Email Chain, Timmer001137 -	
10	Deposition Exhibit Number 170	226	10	Timmer001138)	
11	(6/2/11 Email, Timmer001147)		11	Deposition Exhibit Number 187	251
12	Deposition Exhibit Number 171	227	12	(7/13/11 - 7/22/11 Email Chain and Attachment,	
13	(6/3/11 Email Chain and Attachment,		13	Timmer001132 - Timmer001134)	
14	Timmer000841 - Timmer000842)		14	Deposition Exhibit Number 188	252
15	Deposition Exhibit Number 172	228	15	(8/4/11 Email, Timmer000571)	
16	(6/8/11 Email and Attachment, Timmer000606 -		16	Deposition Exhibit Number 189	252
17	Timmer000607)		17	(List of Incumbents, Timmer000572 -	
18	Deposition Exhibit Number 173	230	18	Timmer000579)	
19	(6/9/11 - 6/13/11 Email Chain, Timmer000020 -		19	Deposition Exhibit Number 190	253
20	Timmer000021)		20	(7/30/11 - 8/6/11 Email Chain, Timmer000164 -	
21	Deposition Exhibit Number 174	232	21	Timmer000165)	
22	(6/13/11 Email and Attachments, Timmer000944 -		22	(Deposition Exhibit Numbers 143 - 190 are	
23	Timmer000951)		23	attached.)	
24	Deposition Exhibit Number 175	233	24	* * * * *	
25	(6/14/11 Email, Timmer000922)		25		

Page 85			Page 87		
1	INDEX OF EXHIBITS, CONTINUED		1	Wednesday, August 29, 2018	
2	EXHIBIT	PAGE	2	Lansing, Michigan	
3	Deposition Exhibit Number 176	235	3	9:05 a.m.	
4	(6/13/11 - 6/15/11 Email Chain and Attachment,		4	R E C O R D	
5	Timmer000110 - Timmer000111)		5	JEFF TIMMER	
6	Deposition Exhibit Number 177	236	6	a witness herein, was called for examination, and	
7	(6/2/11 - 6/15/11 Email Chain and Attachments,		7	remaining under oath, was examined and testified	
8	Timmer000208 - Timmer000212)		8	on his oath as follows:	
9	Deposition Exhibit Number 178	239	9	EXAMINATION, CONTINUED	
10	(6/2/11 - 6/16/11 Email Chain, Timmer000237 -		10	BY MR. TONER:	
11	Timmer000239)		11	Q Mr. Timmer, since we were last together, did you	
12	Deposition Exhibit Number 179	240	12	have an opportunity to review any draft of your	
13	(6/16/11 Email and Attachment, Timmer000847 -		13	transcript from that session?	
14	Timmer000848)		14	A No.	
15	Deposition Exhibit Number 180	241	15	Q Okay. Have you studied any additional documents in	
16	(6/15/11 Email Chain, Timmer000018 -		16	the meantime?	
17	Timmer000019)		17	A Yes.	
18	Deposition Exhibit Number 181	241	18	Q What were those?	
19	(6/16/11 - 6/17/11 Email Chain, Timmer000283 -		19	A News articles.	
20	Timmer000284)		20	Q Can you describe those for me?	
21	Deposition Exhibit Number 182	242	21	A Sure. Related to redistricting maps introduced in	
22	(6/21/11 Email, Timmer000923)		22	2011.	
23	Deposition Exhibit Number 183	243	23	Q In what publication did those articles appear?	
24	(6/18/11 - 6/22/11 Email Chain and Attachments,		24	A I believe MIRS and -- MIRS, which is a Lansing	
25	Timmer000784 - Timmer000787)		25	newsletter.	

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 88</p> <p>1 Q Okay. Put out by any part cular organization?</p> <p>2 A I think it's Michigan -- whatever MIRS is an</p> <p>3 acronym, whatever that stands for.</p> <p>4 Q Okay. I'm not familiar with it. Can you just</p> <p>5 describe for me what kind of publicat on it is?</p> <p>6 A It's essentially a daily Capitol newspaper.</p> <p>7 Q Okay. I want to turn back to the expert report you</p> <p>8 prepared in this case.</p> <p>9 A Okay.</p> <p>10 Q And this one's doubled-side, but I assure you t's</p> <p>11 dent cal to the one that was marked before, and we</p> <p>12 called it Exhibit 142.</p> <p>13 A Okay.</p> <p>14 MR. ELLSWORTH: I'm sorry, I d dn't bring</p> <p>15 mine, and you gave us copies, so I'm going to go</p> <p>16 get mine if you just give me a second.</p> <p>17 MR. TONER: Absolutely.</p> <p>18 MR. KNAPP: I'm going to do the same.</p> <p>19 (Break taken at 9:06 a.m.)</p> <p>20 (Break concluded at 9:08 a.m.)</p> <p>21 Q (MR. TONER) Before we turn pages, did you ever take</p> <p>22 the opportunity to measure what the percent</p> <p>23 const tuency of voters was that was retained in</p> <p>24 each district that the Legislature adopted in 2011</p> <p>25 versus 2001?</p>	<p style="text-align: right;">Page 90</p> <p>1 with regard to some of the Detroit area districts.</p> <p>2 Q Was there any effort to try to retain</p> <p>3 const tuencies as much as possible in the rest of</p> <p>4 the state and really make the main adjustments</p> <p>5 between 14 districts and 15 districts in the</p> <p>6 Detro t area?</p> <p>7 A The -- with the Detroit area is where the</p> <p>8 population loss was primarily concentrated, and so</p> <p>9 the loss of a district would naturally come from</p> <p>10 there.</p> <p>11 Q D d you ever take the opportun ty to measure the</p> <p>12 compactness of the 14 distr cts you mapped in 2011?</p> <p>13 A I did not because compactness isn't a criteria.</p> <p>14 Q And did you take the opportunity to do that at all</p> <p>15 when you prepared this expert report?</p> <p>16 A I did not for the same reason.</p> <p>17 Q Okay. Well, let's turn to the report, Exhib t 142</p> <p>18 again. And if you would, let's go to page 23, and</p> <p>19 you have a discussion of the enacted M chigan House</p> <p>20 plan; do you see that?</p> <p>21 A Uh-huh.</p> <p>22 Q You say that "A key flaw in Dr. Chen's report is</p> <p>23 that he does not cons der the actual approach used</p> <p>24 by map drawers"?</p> <p>25 A Uh-huh.</p>
<p style="text-align: right;">Page 89</p> <p>1 A Not that I recall.</p> <p>2 Q As you prepared your expert report and as you think</p> <p>3 back on it, do you have any estimate of how closely</p> <p>4 the 2011 districts matched the prior decade in</p> <p>5 terms of constituency retained?</p> <p>6 A I would just have estimates.</p> <p>7 Q Okay. Bas cally a guess, or better than that?</p> <p>8 A Well, it's difficult because it's an apples to</p> <p>9 oranges going -- with 15 -- the 2001, if we're</p> <p>10 talking about the congressional --</p> <p>11 Q Let's do that.</p> <p>12 A Okay. With the congressional you have the 15</p> <p>13 districts down to 14. There is a tremendous amount</p> <p>14 of overlap that's evident to -- you know, just but</p> <p>15 looking at a map between many of the existing</p> <p>16 districts in the 2011-enacted plan and districts in</p> <p>17 the 2001-enacted plan.</p> <p>18 Q Am I right that the Greater Detroit area had a drop</p> <p>19 in population?</p> <p>20 A Yes.</p> <p>21 Q Was that roughly 150,000 voting-age adults or</p> <p>22 bigger than that?</p> <p>23 A I believe -- well, I believe the 150,000 number</p> <p>24 applies to the city of Detroit, and I did do a</p> <p>25 comparison of amount of previous district retained</p>	<p style="text-align: right;">Page 91</p> <p>1 Q I'm trying to understand fully what you mean by</p> <p>2 that. Are you suggesting that the maps that</p> <p>3 Dr. Chen has prepared would not have been possible</p> <p>4 to prepare in 2011?</p> <p>5 A I guess I'm saying they wouldn't have been prepared</p> <p>6 because they didn't take into account the criteria.</p> <p>7 He used a different set of criteria to do his maps</p> <p>8 than what the statute called for and that the map</p> <p>9 drawers applied.</p> <p>10 Q And what are the most significant differences in</p> <p>11 Chen's approach?</p> <p>12 A In his -- he describes -- I have to go to the right</p> <p>13 page -- in his report, I don't know how fully I</p> <p>14 cite it here, but he describes the inputs into his</p> <p>15 model that are solely his, they're not the</p> <p>16 statutory criteria, they're not the Apol criteria.</p> <p>17 They resemble that, but it's the Chen criteria,</p> <p>18 it's not the Apol criteria. He uses compactness as</p> <p>19 a -- existing in the hierarchy of the criteria, and</p> <p>20 it doesn't.</p> <p>21 Q Now, I know you're not an attorney, but is it your</p> <p>22 opinion that Dr. Chen's maps would violate the</p> <p>23 statute?</p> <p>24 A They're simply different. He used a different set</p> <p>25 of criteria.</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 92</p> <p>1 Q When the -- I'm on page 24. There's a paragraph</p> <p>2 that begins "Once the map drawers were left with</p> <p>3 configuring 20 districts within Wayne County." Do</p> <p>4 you see that paragraph?</p> <p>5 A Uh-huh. Uh-huh.</p> <p>6 Q And you describe the task of drawing those 20</p> <p>7 districts there?</p> <p>8 A Uh-huh.</p> <p>9 Q First to comply with the statutory criteria, second</p> <p>10 comply with the Voting Rights Act, and finally to</p> <p>11 achieve the requisite votes for passage.</p> <p>12 Is it fair to say that that last factor,</p> <p>13 obtaining the votes from incumbent legislators, was</p> <p>14 equally important to the other two factors?</p> <p>15 A It was equally important to the legislative</p> <p>16 decision-makers, not to the map drawers.</p> <p>17 Q Then why was it utilized by map drawers?</p> <p>18 A At the instruction of the legislative leaders, they</p> <p>19 would make alterations to the maps that they had</p> <p>20 previously produced.</p> <p>21 Q And in your case, those instructions all came from</p> <p>22 Republican leaders; is that right?</p> <p>23 A Correct.</p> <p>24 Q On page 25 and 26 you discuss Michigan House</p> <p>25 Districts 30, 31, 32, and 36 --</p>	<p style="text-align: right;">Page 94</p> <p>1 A Not that I recall.</p> <p>2 Q You told me before in the first session how your</p> <p>3 participation in similar meetings, if you will --</p> <p>4 A Uh-huh.</p> <p>5 Q -- with the map drawers who were primarily</p> <p>6 responsible for helping to prepare the Michigan</p> <p>7 House plan and the Michigan Senate plan helped you</p> <p>8 form your conclusions in your report about how</p> <p>9 those maps were prepared. And am I right that</p> <p>10 those other two map drawers paid attention to prior</p> <p>11 year election results as they prepared those House</p> <p>12 and Senate maps?</p> <p>13 A I know that Republicans and Democrats in the</p> <p>14 Legislature agreed to use the same election history</p> <p>15 database.</p> <p>16 Q The Republican map drawers, did they use election</p> <p>17 data in preparing their maps?</p> <p>18 A In terms of use, I'm not sure -- was it available</p> <p>19 to them? Yes. That's -- so how they used it, they</p> <p>20 would -- that would be a question for them.</p> <p>21 Q You honestly don't know how they used prior year</p> <p>22 election results as they evaluated possible maps?</p> <p>23 A I know that the software that they used had a</p> <p>24 calculation function that would incorporate census</p> <p>25 data and election history data, I do know that.</p>
<p style="text-align: right;">Page 93</p> <p>1 A Uh-huh.</p> <p>2 Q -- and on page 26 there's a discussion of how the</p> <p>3 districts were finalized. And I'm wondering in the</p> <p>4 negotiation with Democrats that finalized those</p> <p>5 districts whether you think the Republicans</p> <p>6 received anything in exchange for getting those</p> <p>7 Democratic votes.</p> <p>8 A I don't know.</p> <p>9 Q How did you come to learn of the discussions with</p> <p>10 Representative Liss about her support of the plan?</p> <p>11 Were you directly involved?</p> <p>12 A I was not involved in the conversation with her.</p> <p>13 Q Then how did you come to learn about that?</p> <p>14 A It was recounted to me following.</p> <p>15 Q By whom?</p> <p>16 A I don't know for certain.</p> <p>17 Q Well, you put it in your report. What's your</p> <p>18 basis?</p> <p>19 A My basis is I remember it being discussed at a</p> <p>20 group meeting.</p> <p>21 Q Who participated?</p> <p>22 A It would have been Dan McMaster, Brian Began, Terry</p> <p>23 Marquardt, and some of the various attorneys that</p> <p>24 I've mentioned before.</p> <p>25 Q Any Democrats in that meeting, to your knowledge?</p>	<p style="text-align: right;">Page 95</p> <p>1 Q In drawing the congressional maps, am I right that</p> <p>2 you made use of that aspect of the software?</p> <p>3 A My software had the same capabilities.</p> <p>4 Q And you, in fact, used it, right?</p> <p>5 A Yes. Yes.</p> <p>6 Q At the top of page 36, it's the end of your</p> <p>7 discussion of Senate Districts 8 and 9 --</p> <p>8 A Uh-huh.</p> <p>9 Q -- you described the legislative circumstances that</p> <p>10 necessitated splitting Clinton Township and how</p> <p>11 Democratic support was received. Again, do you</p> <p>12 know what the Republicans received in exchange for</p> <p>13 those votes?</p> <p>14 A No, though I've described that Clinton Township was</p> <p>15 not required to be split under strict adherence to</p> <p>16 the statutory criteria.</p> <p>17 Q Is it fair to say it was a key part of enacting the</p> <p>18 entire plan to cut a deal like the one you describe</p> <p>19 at the top of page 36?</p> <p>20 A I have no direct knowledge on the role that that</p> <p>21 played.</p> <p>22 Q On page 39, and now getting into the discussion of</p> <p>23 the enacted congressional plan in this part of your</p> <p>24 report, I'm focused on a paragraph in the middle of</p> <p>25 the page that begins "Since Dr. Chen describes</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 96</p> <p>1 inclus on of district compactness and not</p> <p>2 compactness specific to cities or townships, his</p> <p>3 model" essentially you say "is likely to be</p> <p>4 fundamentally flawed"?</p> <p>5 A Uh-huh.</p> <p>6 Q I note the word "likely." Have you done any more</p> <p>7 work to conclude whether t actually is</p> <p>8 fundamentally flawed, in your view?</p> <p>9 A The lack of inclusion in his description of his</p> <p>10 inputs, Dr. Chen, he specifies that he includes</p> <p>11 compactness, which is not a statutory criteria and</p> <p>12 was not a criteria applied by the map drawers. And</p> <p>13 the fact that he excludes any mention of shifting</p> <p>14 the fewest number of cities or townships when</p> <p>15 breaking a county line leads me to conclude that</p> <p>16 his inputs are fundamentally flawed and completely</p> <p>17 different than what was used -- what's required --</p> <p>18 well, what was statutorily indicated in the '90s</p> <p>19 and what -- the process that was used by the map</p> <p>20 drawers in 2011.</p> <p>21 Q And do you think that his maps violate the state</p> <p>22 statute?</p> <p>23 A They're different than the state statute.</p> <p>24 They're -- they're -- they're done with a</p> <p>25 completely different set of criteria.</p>	<p style="text-align: right;">Page 98</p> <p>1 the other 995 maps, I would presume that he also</p> <p>2 miscounts.</p> <p>3 Q You think that's a scientific sample, one out of</p> <p>4 five maps out of a thousand?</p> <p>5 A He claims that all of his congressional maps split</p> <p>6 either nine or ten cities, excluding Detroit, and I</p> <p>7 looked at five, and one of them splits 11,</p> <p>8 excluding Detroit. So, you know, it's a . . .</p> <p>9 Q Yeah. Was this a congressional map that you looked</p> <p>10 at?</p> <p>11 A It is.</p> <p>12 Q Okay. Have you looked at the demonstration map</p> <p>13 attached to the complaint in this case and done a</p> <p>14 similar calculation?</p> <p>15 A Yes.</p> <p>16 Q And what was your conclusion?</p> <p>17 A That that was -- the number of county breaks and</p> <p>18 municipal splits was indicated correctly.</p> <p>19 Q Page 41, please, you have a discussion of</p> <p>20 Congressional District 4, and you mention the</p> <p>21 legitimate concerns of incumbent officeholders</p> <p>22 being considered when you drew the maps?</p> <p>23 A Uh-huh.</p> <p>24 Q Who were they?</p> <p>25 A Congressional District 4 had been and was</p>
<p style="text-align: right;">Page 97</p> <p>1 Q Are they in any way prohibited by the statute, in</p> <p>2 your judgment?</p> <p>3 A They fail to meet a fundamental aspect of the</p> <p>4 criteria going back to the 1982 correspondence with</p> <p>5 the Supreme Court of shifting the fewest number of</p> <p>6 cities and townships when splitting a county line.</p> <p>7 Of course that correspondence is full of</p> <p>8 the explanation as to why the Court in 1982 thought</p> <p>9 that was necessary. And the statute that was</p> <p>10 enacted in the '90s included that as a -- as a --</p> <p>11 one of the -- one of the criteria, and it's</p> <p>12 completely neglected -- in looking at Chen's maps</p> <p>13 since I've done this report, it's evident that he</p> <p>14 did not do that.</p> <p>15 Q What effort have you made to calculate the number</p> <p>16 of cities and towns split on Dr. Chen's maps versus</p> <p>17 the enacted maps?</p> <p>18 A I -- as I mentioned last week, I've looked at a</p> <p>19 handful of maps produced by Chen in the</p> <p>20 congressional, Senate, and House plans, and he --</p> <p>21 he does count in -- I've -- I've -- for example, in</p> <p>22 the congressional maps, I've looked at five maps,</p> <p>23 and he -- he does miscount split cities. And so 20</p> <p>24 percent of the maps that I looked at had miscounts</p> <p>25 of cities, splits. So if you extrapolate that over</p>	<p style="text-align: right;">Page 99</p> <p>1 represented afterward by Dave Kamp.</p> <p>2 Q Okay. Who else? You say officeholders plural.</p> <p>3 A I in concluding that would have taken in Senator</p> <p>4 John Moolenaar in that as well.</p> <p>5 Q Anyone else?</p> <p>6 A Not that I recall.</p> <p>7 Q And you finished that section saying that there</p> <p>8 were other legitimate nonpartisan considerations.</p> <p>9 Are you referring to anything other than the</p> <p>10 concerns of those two incumbents?</p> <p>11 A Where are you?</p> <p>12 Q End of your Section 4 there, Congressional District</p> <p>13 4, the very last clause in the second paragraph.</p> <p>14 A Yes, it would -- there are the neutral criteria of</p> <p>15 the core of an incumbent's district would have been</p> <p>16 one that would have been considered.</p> <p>17 Q How did the new District 4 compare to the old</p> <p>18 District 4 in terms of preserving the core?</p> <p>19 A Significantly. It -- I don't -- there's something</p> <p>20 like 14 or 15 counties in that district. A number</p> <p>21 of them were in the 2001 district.</p> <p>22 Q That was a district that elected Republicans to the</p> <p>23 House of Representatives throughout the prior</p> <p>24 decade; is that right? 2001 on up to 2010?</p> <p>25 A Yes.</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 100</p> <p>1 Q And it has remained a Republ can distr ct to this</p> <p>2 day, right?</p> <p>3 A Yes.</p> <p>4 Q In the next section you discuss Congress onal</p> <p>5 District 5, and, again, you end with the fact that</p> <p>6 other leg itimate nonpartisan cons derations were</p> <p>7 taken into account. I know there's a discussion of</p> <p>8 the Voting Rights Act in your sect on here.</p> <p>9 A Uh-huh.</p> <p>10 Q Are there any other legitimate nonpartisan</p> <p>11 cons derations?</p> <p>12 A The core of the existing district from 2001.</p> <p>13 Q Let's turn to page 43. You discuss Congressional</p> <p>14 District 9, and you mention other legitimate</p> <p>15 nonpartisan considerat ons at the end of that</p> <p>16 section such as preserving the core of a part cular</p> <p>17 district. Are there any others that you would</p> <p>18 include as a legitimate nonpartisan cons deration?</p> <p>19 A There could be others. There would have been in</p> <p>20 District 9, given its proximity to Detroit,</p> <p>21 consideration of Voting Rights impact, not on that</p> <p>22 district but on how that district was configured</p> <p>23 and the impact it would have on Districts 13 and</p> <p>24 14.</p> <p>25 Q Was that actually the case? I don't think that's</p>	<p style="text-align: right;">Page 102</p> <p>1 Q Let's turn, then, to Congressional Distr ct 11 at</p> <p>2 the bottom of 44.</p> <p>3 A Okay.</p> <p>4 Q Again, there's a reference in your I guess fourth</p> <p>5 paragraph to the concerns of incumbent off cials.</p> <p>6 Who were they?</p> <p>7 A Again, the use of plural is an oversight. That</p> <p>8 would be Thad McCotter.</p> <p>9 Q I want to ask you about your use of the word</p> <p>10 "legitimate." What do you mean "a legitimate</p> <p>11 concern"?</p> <p>12 A Let me look.</p> <p>13 Earlier in the report I mentioned the</p> <p>14 neutral criteria. I don't recall exactly where</p> <p>15 that is. "Incumbency considerations, preservation</p> <p>16 of core constituencies, communities of interest,</p> <p>17 and achieving support sufficient for passage are</p> <p>18 all legitimate considerations."</p> <p>19 MR. ELLSWORTH: What page are you looking</p> <p>20 at, Mr. Timmer?</p> <p>21 THE WITNESS: I'm looking at the top of</p> <p>22 page 6 there, second bullet.</p> <p>23 MR. ELLSWORTH: Thank you.</p> <p>24 THE WITNESS: Uh-huh.</p> <p>25 Q (MR. TONER) So in the case of Thad McCotter, his</p>
<p style="text-align: right;">Page 101</p> <p>1 mentioned in your report.</p> <p>2 A Yes, it is the case.</p> <p>3 Q Is there a reason why you didn't discuss it here?</p> <p>4 A No.</p> <p>5 Q Okay. Let's turn, then, to Congressional District</p> <p>6 10 which you discuss at the bottom of page 43, top</p> <p>7 of page 44.</p> <p>8 A Uh-huh.</p> <p>9 Q Again, you note that consideration in drawing that</p> <p>10 district was given to concerns of incumbent</p> <p>11 officials, particularly as to splitting</p> <p>12 Sterling Heights.</p> <p>13 Which officials are you referring to?</p> <p>14 A Candice Miller.</p> <p>15 Q Anyone else?</p> <p>16 A No.</p> <p>17 Q Is that just an oversight to use the plural there I</p> <p>18 take it?</p> <p>19 A Yes.</p> <p>20 Q Again, this section ends with your view that "Other</p> <p>21 legitimate nonpartisan considerations were taken</p> <p>22 into account." Would you list them for me?</p> <p>23 A Preserving the core of the existing district.</p> <p>24 Q Anything else?</p> <p>25 A Not that I remember.</p>	<p style="text-align: right;">Page 103</p> <p>1 incumbency consideration is essentially being</p> <p>2 reelected to Congress; is that right?</p> <p>3 A I would -- that would -- that would -- ask --</p> <p>4 Q Is that just a \$10 way of saying the same thing?</p> <p>5 A He was not reelected to Congress.</p> <p>6 Q Right, but he wanted to be.</p> <p>7 A I assume he did, but he wasn't given the chance.</p> <p>8 Q D d he have strong views about how the district was</p> <p>9 drawn?</p> <p>10 A He did. He did.</p> <p>11 Q And what were his views about splitting</p> <p>12 Rochester Hills in part cular?</p> <p>13 A I don't know.</p> <p>14 Q Well, there in that paragraph you say</p> <p>15 "Cons deration was given to the legitimate concerns</p> <p>16 of incumbent off cial" we'll say "as to the manner</p> <p>17 of spl tting Rochester Hills so as to make</p> <p>18 Distr ct 11 contiguous to Troy."</p> <p>19 A Yeah. There would have been in exchanged emails</p> <p>20 the unsolicited emails that were received either</p> <p>21 from Thad or typically from Jack Daly indicating</p> <p>22 this, that, and the other thing when it came to</p> <p>23 Oakland County, and there -- there was a suggestion</p> <p>24 to -- Thad's concerns could be met by splitting</p> <p>25 Rochester Hills in a way that brought that district</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 104</p> <p>1 ultimately into population compliance.</p> <p>2 Q Back in 2010, what would you say roughly the</p> <p>3 partisan makeup of Oakland County was?</p> <p>4 A Leaning Democrat.</p> <p>5 Q What about the area of Rochester Hills?</p> <p>6 A Leaning Republican.</p> <p>7 Q Did Congressman McCotter have a preference to</p> <p>8 include Rochester Hills in what he considered his</p> <p>9 district?</p> <p>10 A No, I don't believe so. The -- the -- there's just</p> <p>11 a small portion of Rochester Hills included in his</p> <p>12 district. It's -- the number of people that were</p> <p>13 required to essentially balance the district,</p> <p>14 6,000-and-some-odd people. I think I mention that</p> <p>15 earlier in the report.</p> <p>16 Q What was your understanding of why the congressman</p> <p>17 wanted those folks in his district?</p> <p>18 A I don't -- I don't know.</p> <p>19 Q Honestly?</p> <p>20 A The 6,000 -- yeah, I honestly don't know, because</p> <p>21 it -- those 6,000 people versus similarly 6,000</p> <p>22 people from neighboring Bloomfield Township would</p> <p>23 have made no difference in -- in the -- in the</p> <p>24 outcome of the district.</p> <p>25 Q Both are heavy --</p>	<p style="text-align: right;">Page 106</p> <p>1 of interest that you were trying to preserve?</p> <p>2 A I don't know that I can define communities of</p> <p>3 interest. I do know that it's listed as a neutral</p> <p>4 criteria in the LeRoux case.</p> <p>5 Q What makes you think it was a factor in District 11</p> <p>6 if you can't describe them?</p> <p>7 A It was a community of interest to the incumbent.</p> <p>8 Q And certainly Congressman McCotter had strong views</p> <p>9 about who ought to be in his district; is that</p> <p>10 fair?</p> <p>11 A It's true, yes.</p> <p>12 Q Okay. Let's go to District 12, please, the top of</p> <p>13 page 45.</p> <p>14 A Uh-huh.</p> <p>15 Q Again, you end with "other legitimate nonpartisan</p> <p>16 considerations"?</p> <p>17 A Uh-huh.</p> <p>18 Q Would you please list the ones you recall being</p> <p>19 significant as to District 12?</p> <p>20 A Incumbency and the preservation of the core of the</p> <p>21 existing district. That was John Dingell at the</p> <p>22 time.</p> <p>23 Q With regard to Congressional Districts 13 and 14,</p> <p>24 do you recall whether there was a black voting age</p> <p>25 percentage target for those districts?</p>
<p style="text-align: right;">Page 105</p> <p>1 A Either --</p> <p>2 Q I'm sorry. Go ahead.</p> <p>3 A No, either could have been -- when you look at the</p> <p>4 geography if you have a map, either could have been</p> <p>5 used, and for some reason they suggested that, I</p> <p>6 don't know why.</p> <p>7 Q And do both of those areas have similar</p> <p>8 concentrations of Republican voters?</p> <p>9 A That area of Oakland County does.</p> <p>10 Q Do you happen to know whether there were more</p> <p>11 Republican donors in the Rochester Hills area that</p> <p>12 perhaps the congressman was relying on?</p> <p>13 A I do not know his donor base.</p> <p>14 Q You close your discussion of District 11 with this</p> <p>15 common phrase, "other legitimate nonpartisan</p> <p>16 considerations"?</p> <p>17 A Uh-huh.</p> <p>18 Q Would you list those for me as to this district?</p> <p>19 A Well, was that page 6 that I just cited?</p> <p>20 "Incumbency considerations, preservation of core</p> <p>21 constituencies, communities of interest, and</p> <p>22 achieving the support sufficient for passage,"</p> <p>23 which, as I mentioned last week, is -- was never a</p> <p>24 sure thing.</p> <p>25 Q In terms of District 11, what were the communities</p>	<p style="text-align: right;">Page 107</p> <p>1 A There was concern about retrogression, and is it</p> <p>2 possible to preserve the core of existing</p> <p>3 districts, take into account incumbency of, at the</p> <p>4 time, John Conyers and Hansen Clarke, and adhere to</p> <p>5 the Voting Rights Act, is it possible to draw a</p> <p>6 majority-minority district.</p> <p>7 Q And was there any percentage target for black</p> <p>8 voters?</p> <p>9 A A majority. A majority of black voters.</p> <p>10 Q In terms of the map drawing that you participated</p> <p>11 in, did you deal directly at all with any elected</p> <p>12 officeholders?</p> <p>13 A Yes.</p> <p>14 Q Who do you recall?</p> <p>15 A Thad McCotter. Randy Richardville. Jase Bolger.</p> <p>16 Joe Hune. Pete Lund. I have direct recollection</p> <p>17 of those individuals. I'm not saying it's limited</p> <p>18 to them, but . . .</p> <p>19 Q Did you have direct interaction with any staff</p> <p>20 people for other officeholders as you drew the maps</p> <p>21 in 2011?</p> <p>22 A Yes, numerous legislative staff, I couldn't even</p> <p>23 begin to name them, and congressional staff. And,</p> <p>24 as evident in the emails that you've seen, Jim</p> <p>25 Brandell, Jamie Roe, Jon DeWitte, Jack Daly, Andy</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 108

1 **Keiser. Those are the once that I recall.**
2 Q What party leaders did you deal with as you drew
3 the maps in 2011?
4 **A I'm sure that I had communications with Bobby**
5 **Schostak at varying points.**
6 Q He was the head of the --
7 **A The chairman, Michigan Republican Party, yes.**
8 Q Thank you. Did you interact, communicate, w th any
9 leaders or representatives of the Republ can
10 Nat onal Comm ttee?
11 **A Not regarding redistricting.**
12 Q What were the subjects you did commun cate w th
13 them on at that time?
14 **A I mentioned last week in 2011, early in 2011, there**
15 **was a race, a campaign for chair of the Republican**
16 **National Committee that I was involved in. It's**
17 **likely that I attended a Republican National**
18 **Committee meeting during 2011 -- well, I know I did**
19 **early in 2011. I don't know about later. I'm**
20 **trying to think.**
21 **I would have had conversations with Saul**
22 **Anuzis, which was a Republican National**
23 **Committeeman, regarding his race for chair of the**
24 **National Committee Meeting.**
25 Q Okay.

Page 110

1 **A I don't recall any other consultants.**
2 Q As part of the redistr cting process that you
3 performed or were -- observed, d d you have any
4 commun cations with elected Democrats?
5 **A Possibly. I'm trying to recall who was -- who**
6 **would have been elected at that time. Term limits**
7 **makes it a bit fuzzy. So possibly.**
8 Q In connection with the congressional distr cts, do
9 you recall interact ons w th elected Democrats or
10 their staff?
11 **A No.**
12 Q Did you yourself prov de any draft maps to any
13 elected Democrats, their staff, or any Democrat
14 organizat ons?
15 **A I didn't myself provide them.**
16 Q Okay. D d you provide any data to such indiv duals
17 or organizations?
18 **A No. I have reason -- my understanding was I was**
19 **providing information that was shared with Democrat**
20 **legislators.**
21 Q Yeah, but d d you yourself do t?
22 **A No.**
23 Q Did they ever participate in any meetings that you
24 participated in to draw the maps?
25 **A Not that I recall.**

Page 109

1 **A Or of the National Committee.**
2 Q In terms of the 2011 redistricting, did you
3 communicate with anyone at the NRCC?
4 **A I don't believe that I did.**
5 Q We talked about one interest group last time, the
6 Michigan Chamber of Commerce. Were there any other
7 Republican or conservative interest groups that you
8 communicated w th during the map drawing?
9 **A I don't recall any others.**
10 Q D d you commun cate w th any Republican donors
11 during redistricting?
12 **A It's possible that people -- I'm sure that some**
13 **people -- describe -- donor being somebody who**
14 **gives \$5 or \$10? I mean, I don't -- I don't know.**
15 **I don't have the answer to that.**
16 Q That's certainly a fair point, and I didn't mean to
17 challenge you in that way. I'm interested in
18 someone who is not necessarily -- not an elected
19 official and not a party leader but you knew to be
20 a contributor, significant donor.
21 **A I don't recall dealing with anybody with regard to**
22 **redistricting who would be considered a donor like**
23 **that.**
24 Q What Republican consultants d d you interact w th
25 in 2011 redistr cting?

Page 111

1 Q Did you have any communicat ons with the NAACP at
2 all during the process?
3 **A No.**
4 Q Did you have any communicat ons with the League of
5 Women Voters during the process?
6 **A Not during 2011, no.**
7 Q Did you have any communicat ons with anyone from
8 Common Cause during 2011?
9 **A I don't know who was involved with Common Cause. I**
10 **don't -- I couldn't answer that.**
11 Q So if there were any, you don't recall them?
12 **A Yeah, right. Right.**
13 Q In 2012 there was a congressional elect on. Do you
14 recall roughly what the statewide Republican vote
15 was for Congress that year?
16 **A No, I've never looked at the votes that way.**
17 Q How many Republican seats were obtained in the 2012
18 elect on?
19 **A Nine.**
20 Q How many Republican seats were obtained in the 2014
21 elect on for Congress?
22 **A Nine.**
23 Q How many Republican seats were obtained in the 2016
24 Republ can election for Congress?
25 **A Also nine.**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 112

1 Q If I were to ask you what's the -- roughly the
2 percentage of Republican voters in the state of
3 Michigan during 2016, do you have any educated
4 guess for me?
5 **A Based on statewide results, the -- it was fairly**
6 **evenly split. There were slightly more Republicans**
7 **that voted for Donald Trump than Hillary Clinton.**
8 Q And do you know what the percentage is of the nine
9 GOP congressional seats to the 14 available?
10 **A Not without -- I can't do that math in my head.**
11 Q Roughly 60; is that fair?
12 **A I don't -- I don't know.**
13 Q All right. Well, we'll get a calculator, how's
14 that?
15 **A Sure.**
16 Q As of 2016, how many of the congressional districts
17 in Michigan did you consider to be competitive?
18 **A Several.**
19 Q Of the 14 how many?
20 **A Five.**
21 Q Of the Senate districts in 2016, how many did you
22 consider to be competitive?
23 **A There wasn't a Senate election in 2016.**
24 Q Ah. Okay. Was there a House election in 2016?
25 **A Yes.**

Page 114

1 **A Correct. Correct.**
2 Q And also from is it the Secretary of State's
3 office?
4 **A I did not have access to the shared database that**
5 **was between the Democrats and Republicans in the**
6 **Legislature and the executive office.**
7 Q Did you receive election data from any source other
8 than Combat Data?
9 **A Not that I utilized in my software. Or the**
10 **software I used in --**
11 Q The Combat Data information is something you added
12 to the Mapitude software?
13 **A Correct.**
14 Q And that was useful as you drew lines to add voters
15 to particular districts; is that right?
16 **A It was part of the calculation -- it was part of**
17 **the software calculation that tracked the variety**
18 **of census information on election history.**
19 Q Did you personally prefer 2011 plans that you
20 drafted that were more likely to produce a majority
21 of Republican officeholders?
22 **A Personally prefer?**
23 Q Yes.
24 **A I typically prefer to see Republicans elected.**
25 Q Is it also fair to say that Republican leaders have

Page 113

1 Q And how many of those would you say were
2 competitive?
3 **A Roughly 20.**
4 Q In your expert opinion based on all these years of
5 drawing maps in Michigan, would you say that past
6 election data is the best available predictor of
7 future voting behavior of Michigan citizens?
8 **A No.**
9 Q What's better, in your view?
10 **A I -- I don't know. I think there's a lot of people**
11 **who would like to be able to quantify that and**
12 **predict.**
13 Q Right.
14 **A I don't know.**
15 Q You don't have any view about whether it's more
16 reliable to look at how folks voted in a particular
17 neighborhood as opposed to what they said to
18 pollsters?
19 **A Vote history -- or election data is a factor.**
20 **There are -- I think experience has taught me there**
21 **are many, many factors that go into -- or that can**
22 **be used to predict. And predicting is an inexact**
23 **science, that's for sure.**
24 Q In 2011 you obtained election result data from
25 Combat Data; is that right?

Page 115

1 the same kind of view?
2 **A I can't imagine that they wouldn't.**
3 Q Is it fair to say that an incumbent has a
4 preference about where lines are drawn for his or
5 her district in that it has real impact on the time
6 they have to spend traveling around their district,
7 the money they spend campaigning in the district,
8 the donors in the district, and maybe even other
9 factors? Is that a reasonable conclusion?
10 **A I would think that any of -- any or some or all of**
11 **those factors could matter in different ways to**
12 **different officeholders.**
13 Q Is it fair to say that an incumbent would not want
14 to face a fellow incumbent in his or her district
15 during the next election?
16 **A I think that's a bipartisan desire.**
17 Q Would you agree that citizens also have strong
18 feelings about where district lines are drawn?
19 **A Some I would imagine.**
20 Q Would some citizens have strong feelings about
21 whether their political party achieves a majority?
22 **A Possibly. I think most people don't think in those**
23 **terms.**
24 Q But there are a fair number who do, of course,
25 right?

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 116

1 **A I don't -- I couldn't quantify it.**
2 Q I'm trying to understand some of the public
3 relations issues that come about as redistricting
4 occurs. Do you think some voters feel frozen out
5 and that their vote really doesn't count anymore?
6 **A I don't know.**
7 Q Do you think some voters feel it's just harder to
8 organize and mobilize similarly minded citizens to
9 support a party and its candidates?
10 **A I can't speak for -- I know that there's many**
11 **people involved in the Republican and Democrat**
12 **process -- or Democrat parties, and they would try**
13 **to influence their elected representatives to act a**
14 **certain way.**
15 Q Do you think there are a number of Michigan voters
16 who feel that the way districts have been drawn in
17 this state make it tougher to attract good, strong,
18 viable candidates to run?
19 **A Yes.**
20 Q If you live in a district that's almost inevitably
21 going to go to the other party, it makes it a
22 little harder to recruit someone from your party to
23 run, right?
24 **A No, that's not my experience.**
25 Q What is your experience?

Page 117

1 **A My experience is that we've always -- or typically**
2 **been able to find candidates willing to run in**
3 **districts that are strongly -- Republican**
4 **candidates in districts that are strongly Democrat**
5 **and vice versa. There's seldom elections that go**
6 **by uncontested.**
7 Q But it does happen sometimes?
8 **A A handful over 30 years that I've been involved.**
9 Q Are there other public relations concerns that you
10 had in 2011 as you went through the redistricting
11 process?
12 **A I think I mentioned last week -- if not, I'll just**
13 **state it now -- that the public relations concern**
14 **was typically thought of as the impact it would**
15 **have on potential for passage of a plan, the impact**
16 **public relations would have on the legislators**
17 **voting on the plans.**
18 Q I see. Gathering sufficient votes to get the plan
19 approved is affected by the views of constituents?
20 **A Newspaper editorials, articles, talk radio, that**
21 **kind of thing, yes.**
22 Q Do you recall that there was chatter like that in
23 2011 accusing the process of being rigged or that
24 gerrymandering was occurring?
25 **A I recall articles that indicated that.**

Page 118

1 **(Deposition Exhibit Number 143**
2 **was marked for identification.)**
3 Q (MR. TONER) Do you recognize Exhibit 143 as copies
4 of Sterling Corporation invoices and your own
5 detailed time reports from 2011?
6 **A They appear to be.**
7 Q If we take just the first one, the invoice dated
8 January 1st, 2011, describes a January consulting
9 fee. Were your efforts to draw maps included in
10 that bill?
11 **A I do not recall.**
12 Q Up until that was it common to include your own
13 time in monthly reports? I'm sorry. Monthly
14 invoices to MRRI?
15 **A I can't say for certain, but I don't recall**
16 **submitting detailed time invoices.**
17 Q You have prepared detailed time entries for some
18 months; is that right?
19 **A Well, there are some included here.**
20 Q Yeah.
21 **A I don't know that there weren't others at the time.**
22 Q Was it your practice to record your time regularly
23 and describe what you had done for particular
24 customers?
25 **A Yes.**

Page 119

1 Q And did you do that in January and February of
2 2011?
3 **A I would assume so, but I do not recall.**
4 Q Do you know what may have happened to those
5 reports?
6 **A I have no idea.**
7 Q Was there a practice at Sterling Corporation as to
8 how your time would be allocated among various MRRI
9 projects?
10 **A A process -- there was no formal process, no.**
11 Q Now, if we turn to the next one, the next page in
12 Exhibit 143, there's an invoice dated April 1, I
13 guess 2012. Do you know whether that included any
14 redistricting time?
15 **A I do not.**
16 Q Do you know whether any of your own time is
17 included in this bill for \$4,350?
18 **A I do not.**
19 Q The next one in this document which we received
20 since we were last together is dated June 7, 2011.
21 It's page 3. Certainly you were heavily involved
22 in mapping work during May of 2011; is that right?
23 **A Yes.**
24 Q Were you also involved in mapping work during March
25 and April of that year?

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 120

1 **A Yes.**
2 Q Did you prepare detailed time reports for the
3 months of March, April, and May?
4 **A That would have been typical practice.**
5 Q Is there a reason, that you know of, as to why
6 Sterling Corporation sent this particular invoice
7 out as a wrong number -- as a raw rounded number as
8 opposed to an hourly calculation?
9 **A I have no specific recollection of the**
10 **circumstances.**
11 Q Do you have any information about how your mapping
12 services were allocated to this invoice?
13 **A No.**
14 Q And do you have any information as to how your
15 mapping services were allocated to the next
16 invoice, which is the fourth page of this exhibit
17 also dated June 7?
18 **A No.**
19 Q This second June 7 invoice, Invoice Number 3827, do
20 you have it in front of you?
21 **A I do.**
22 Q Do you see where it refers to mapping and
23 consulting services that go back to June of 2009?
24 **A I do.**
25 Q Were you doing mapping work during 2009 for MRRI?

Page 122

1 **A No. No.**
2 Q Let's turn then to 2010.
3 **A Okay.**
4 Q And I take it your work in 2010 was included on
5 this invoice since it covers a time period from
6 June '09 to March 21, 2011?
7 **A Uh-huh.**
8 Q Would you describe for me what you did in 2010
9 involving mapping?
10 **A Yeah. In 2010 what I would recall is in**
11 **preparation of the release of the census numbers,**
12 **throughout 2010 there were meetings with key**
13 **legislative staff and attorneys, the Senate and**
14 **House legal counsels, meetings with the governor's**
15 **office in preparation that I would have been**
16 **involved in.**
17 Q Did you prepare some draft plans at that time?
18 **A I don't believe so. I think the only speculative**
19 **maps would have been from 2009.**
20 Q What do you recall preparing in 2010?
21 **A I don't recall preparing anything, I just recall**
22 **participating in meetings and discussions about the**
23 **release of the census data, kind of assignment or**
24 **division of roles, Senate maps, House maps,**
25 **congressional maps, etc.**

Page 121

1 **A Yes.**
2 Q Describe that for me, please.
3 **A There was a project that involved census estimated**
4 **populations and speculative maps.**
5 Q And you created some drafts --
6 **A Yes.**
7 Q -- at that time?
8 Do you know what happened to those
9 drafts?
10 **A I do not.**
11 Q Have you made an effort to find them?
12 **A I did when I received Mr. Brewer's letter.**
13 Q Okay. Do you have any information about what may
14 have become of them?
15 **A No.**
16 Q And did you create some documents in connection
17 with the census population work you described a
18 second ago?
19 **A I probably created PDFs. Yes, I think the answer**
20 **would be yes.**
21 Q Do you know what happened to those documents?
22 **A No, not unless they were contained in the emails**
23 **that -- as an attachment to the various emails.**
24 Q Do you recall reviewing anything from 2009 as you
25 prepared for your deposition?

Page 123

1 Q Who were the legislators who participated in 2010
2 in those meetings?
3 **A I'm trying to remember who -- again, term limits**
4 **makes my memory fuzzy. I can't remember who was in**
5 **office in 2010 versus who was elected in 2010. I**
6 **don't know.**
7 Q Were any Democrats present during any of those
8 meetings?
9 **A It's not likely.**
10 Q Was it in 2010 that a decision was made to make you
11 primarily responsible for the congressional
12 districts?
13 **A I believe so.**
14 Q Let's go to the next page in this same exhibit.
15 They're not numbered, but we're probably up to page
16 5. At any rate, it's Invoice Number 3833. Do you
17 see that?
18 **A Yes, I do.**
19 Q And this invoice covers time spent in June; is that
20 right?
21 **A That's what it indicates.**
22 Q Certainly you spent a lot of work on mapping during
23 the month of June 2011, true?
24 **A Yes.**
25 Q And while it just says the word "consulting," am I

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 124</p> <p>1 right that the bill would include your time spent</p> <p>2 on mapping work?</p> <p>3 A Yes.</p> <p>4 Q I note that the figure there, 103.5 hours, actually</p> <p>5 matches the next three pages of this exhibit, the</p> <p>6 detailed time report for June 1 through June 30; do</p> <p>7 you see that?</p> <p>8 A I see those pages that indicate that, yes.</p> <p>9 Q Can we assume that these next three pages in your</p> <p>10 mind fairly accurately described what you were</p> <p>11 doing each day on mapping and redistricting 2011</p> <p>12 during the month of June?</p> <p>13 A I would imagine they were -- my timekeeping was</p> <p>14 indicative of what I was doing.</p> <p>15 Q You don't recall leaving out any part of the</p> <p>16 redistricting process, not telling MRR1 about it,</p> <p>17 right?</p> <p>18 A I don't recall.</p> <p>19 Q Okay. Well, let's spend some time going through</p> <p>20 your entries.</p> <p>21 A Okay.</p> <p>22 Q On June 1 your time reports discuss changes to</p> <p>23 CD 11 per Jack Daly. Is that a reference to</p> <p>24 Congressional District 11?</p> <p>25 A CD 11 would have -- yes.</p>	<p style="text-align: right;">Page 126</p> <p>1 Q The next date, June 2nd, there's a reference to</p> <p>2 "changes to Holland City split"?</p> <p>3 A Uh-huh.</p> <p>4 Q Did I read that correctly?</p> <p>5 A Yes.</p> <p>6 Q What does that refer to?</p> <p>7 A The second -- the 2nd Congressional District and</p> <p>8 the 6th Congressional District share portions of</p> <p>9 the city of Holland.</p> <p>10 Q What's the political makeup of the city of Holland,</p> <p>11 roughly?</p> <p>12 A It would tend to vote Republican.</p> <p>13 Q You refer to "changes to Sterling Heights split" --</p> <p>14 A Uh-huh.</p> <p>15 Q -- in the same entry. Describe for me what that</p> <p>16 refers to.</p> <p>17 A The enacted plan splits the city of</p> <p>18 Sterling Heights between District 10 and</p> <p>19 District 11.</p> <p>20 Q What's the political makeup of Sterling Heights?</p> <p>21 A Fairly competitive.</p> <p>22 Q Do you have a recollection of how that split was</p> <p>23 finalized?</p> <p>24 A Not specific recollection as to . . .</p> <p>25 Q Do you recall communicating with particular</p>
<p style="text-align: right;">Page 125</p> <p>1 Q And were these changes that came at the direction</p> <p>2 of Mr. Daly?</p> <p>3 A Direction? I wouldn't call it direction.</p> <p>4 Q What would you call it?</p> <p>5 A Daly would often submit his thought of the day or</p> <p>6 hour. In an effort to placate and get Jack Daly</p> <p>7 off my back, I would sometimes say here's what</p> <p>8 would happen if you did this, what you suggest, and</p> <p>9 hopefully he would go away.</p> <p>10 Q Does he have a strong personality?</p> <p>11 A He had a persistent personality.</p> <p>12 Q You go on in that entry to say "subsequent changes</p> <p>13 to CD 13, 14, and 9." Do you recall whether</p> <p>14 changes in those districts were driven by the</p> <p>15 proposed change to 11?</p> <p>16 A I would assume nothing like that from this, it</p> <p>17 would have been a speculative Jack -- I would have</p> <p>18 retold Daly if what you suggest was done, this would</p> <p>19 be the impacts on surrounding districts. I</p> <p>20 wouldn't take from that entry that that had any</p> <p>21 bearing on ultimate configuration of the districts</p> <p>22 mentioned.</p> <p>23 Q Do you have a recollection of what the changes to</p> <p>24 these 13, 14, and 9 districts refers to?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 127</p> <p>1 incumbents about the Sterling Heights split?</p> <p>2 A Not directly with an incumbent, no.</p> <p>3 Q With their staff?</p> <p>4 A Yes.</p> <p>5 Q Who?</p> <p>6 A Jamie Roe.</p> <p>7 Q And Jamie Roe represented --</p> <p>8 A Candice Miller.</p> <p>9 Q A Republican, right?</p> <p>10 A Yes.</p> <p>11 Q Next I believe it says "alt configuration for Kzoo</p> <p>12 State House seats." What does that refer to?</p> <p>13 A I would assume -- well, "alt" would have been</p> <p>14 "alternative."</p> <p>15 Q Do you recall why that work was done?</p> <p>16 A As I mentioned last week, I was primarily</p> <p>17 responsible for the drawing of the congressional</p> <p>18 lines but also was consulted by the House and</p> <p>19 Senate map drawers to review what they had done,</p> <p>20 were they applying the criteria directly --</p> <p>21 correctly, and so that's I'm sure of in reference</p> <p>22 to that.</p> <p>23 Q Do you know what criteria were being applied to</p> <p>24 make this alternative configuration?</p> <p>25 A The -- it would have been confined to, in the case</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 128

1 of Kalamazoo, the number of MCDs shifted or the MCD
2 splits within Kalamazoo County.
3 Q Do you recall who made a request concerning that?
4 A No.
5 Q Anything else about June 2 that you recall? I see
6 it says "other miscellaneous re congress onal."
7 A I have no recollection what that would be.
8 Q Fair enough. Let's move to June 3 then. It says
9 "Supreme Court seven district plans." Tell me what
10 that was.
11 A Yes, that was completely unrelated to the
12 legislative or congressional redistricting, that
13 was a speculative exercise on drawing districts to
14 elect Supreme Court justices.
15 Q And that was funded by MRRI, right, since it's part
16 of this bill, the work you performed?
17 A Yes, I would -- I would assume so, that that's
18 correct.
19 Q Was a plan delivered? I see on June 6 reference to
20 tweaking it.
21 A Delivered --
22 Q To anyone?
23 A I believe Bob LaBrant and I would have conversed
24 about a plan, maybe shared via email, I don't know.
25 Q On June 6th there's an entry for half an hour

Page 130

1 Q Next it says "Auburn Hills request from Suzanne --"
2 I can't read the next word.
3 A "Allen."
4 Q "Allen." Who is Suzanne Allen?
5 A Suzanne was the chief of staff to the speaker of
6 the House.
7 Q And what was the Auburn Hills request at that time?
8 A I have no recollection of what that was.
9 Q What's the political makeup of Auburn Hills?
10 A I think it leans Democrat, but I'm not certain.
11 Q It's a suburb of Detroit?
12 A It's an Oakland County -- city in Oakland County.
13 Q Finally on that same day, or that same entry
14 rather, "modified McCotter options." What do you
15 recall about that work?
16 A I would -- I would recollect that any reference of
17 McCotter or Jack Daly were as I described before,
18 efforts to placate and make them go away.
19 Q They were very interested in making sure McCotter's
20 district had a strong Republican baseline
21 participation, right?
22 A No, no, no. I think they were very interested in
23 making sure that it was suited that McCotter --
24 that the area was -- the areas involved were likely
25 to be Republican, but they were more concerned

Page 129

1 concerning changes to Congressional Districts 13
2 and 14. Do you know who requested those changes?
3 A No.
4 Q Do you know what the changes were at all? Any
5 description you can give me?
6 A No.
7 Q Let's move to June 7. "Map drawer meeting, Timmer
8 call-in." Am I reading that right, the first part
9 of your description?
10 A It appears to be, yes. It's a little blurry.
11 Q What meeting would that have been?
12 A I don't know.
13 Q Did it -- did you from time to time call in to
14 redistricting meetings that were occurring?
15 A Well, I have no specific recollection other than
16 that it indicates that I did.
17 Q Yeah, I just wondered how often that might have
18 occurred.
19 A I don't know.
20 Q Do you know whether others called in to meetings?
21 A I don't know.
22 Q Do you know where that meeting was?
23 A No.
24 Q Do you have any recollection of who participated?
25 A No.

Page 131

1 about personalities.
2 Q Okay. Let's go to June 8, 1.75 hours, "Jamie Roe,
3 more McCotter options."
4 Oh, those are two different things,
5 aren't they?
6 A Uh-huh.
7 Q What was the Jamie Roe request?
8 A I don't know. It could have been any number of
9 things, conversation, or activity, I have no idea.
10 Q Is he a consultant for Congresswoman Miller or --
11 A No, he was her chief of staff in Washington.
12 Q Chief of staff?
13 A Yeah.
14 Q At the end of that entry there it says "info to
15 Sandler." Do you know what the purpose of that
16 was?
17 A No, I'm not sure what info.
18 Q Did Mr. Sandler from time to time deliver draft
19 plans and other information to Bobby Schostak?
20 A Yes.
21 Q You said a second ago a reference to the
22 personalities of McCotter's district. Help me
23 understand a little better what you meant.
24 A That's lots of opponents, potential opponents,
25 lurking in every precinct in Oakland County. And

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 132</p> <p>1 so I think my recollection is that many of his</p> <p>2 emails were -- the ones from Jack Daly were</p> <p>3 prompted by, you know, including this area in his</p> <p>4 district would put so-and-so into his district.</p> <p>5 Q They had a strong preference to keep potential</p> <p>6 opponents --</p> <p>7 A Yeah, the preservation of his core district and</p> <p>8 incumbency was the concern there. I know that Thad</p> <p>9 felt he could get elected anywhere in that</p> <p>10 district, but he was more concerned about who might</p> <p>11 run against him in a primary. He would get elected</p> <p>12 in a general election.</p> <p>13 Q Is a congressperson required to live in the</p> <p>14 district they represent?</p> <p>15 A No.</p> <p>16 Q I'm now at the next page at the top, a reference to</p> <p>17 1.5 hours.</p> <p>18 A Uh-huh.</p> <p>19 Q The first entry I think just says "Roe." Is that a</p> <p>20 communication with Jamie Roe do you think?</p> <p>21 A Some -- something involving Jamie, yes. I mean, he</p> <p>22 would be the only Roe I would refer to at that</p> <p>23 time.</p> <p>24 Q Okay. What's the next entry there on that line? I</p> <p>25 cannot read it. I think it says "DeWitte"?</p>	<p style="text-align: right;">Page 134</p> <p>1 A Bill was a Senate staffer.</p> <p>2 Q Michigan Senate, right?</p> <p>3 A Correct.</p> <p>4 Q Do you know what data was requested?</p> <p>5 A I don't.</p> <p>6 Q You don't know whether it was map data or elect on</p> <p>7 data?</p> <p>8 A Well, it says "election data."</p> <p>9 Q Oh, elect on data, yes.</p> <p>10 A I don't know --</p> <p>11 Q Right.</p> <p>12 A -- what it -- you know, what in particular it was.</p> <p>13 Q Right. Do you know how it was being used at all?</p> <p>14 A No.</p> <p>15 Q Okay. June 13 you write "multiple alternative</p> <p>16 congressional versions, data for Keiser and NRCC"?</p> <p>17 A Uh-huh.</p> <p>18 Q Were you able to provide that data to be delivered</p> <p>19 to the NRCC?</p> <p>20 A I don't know. I assume that's a request. As I</p> <p>21 mentioned before, I never dealt directly with NRCC</p> <p>22 on anything.</p> <p>23 Q It looks like a heavy day of map drawing. 6.25</p> <p>24 hours. Do you recall what was going on at that</p> <p>25 time in terms of making alternative maps?</p>
<p style="text-align: right;">Page 133</p> <p>1 A Yeah, I mentioned Jon DeWitte, who was the chief of</p> <p>2 staff to Bill Huizinga.</p> <p>3 Q Bill Huizinga was an elected Republican</p> <p>4 congressman?</p> <p>5 A Was and is.</p> <p>6 Q Okay. Next you write in your time records "Data</p> <p>7 for Andy Keiser"?</p> <p>8 A Uh-huh.</p> <p>9 Q Who is Andy Keiser?</p> <p>10 A Andy was the chief of staff to Congressman Mike</p> <p>11 Rogers.</p> <p>12 Q Okay. Also a Republican?</p> <p>13 A Yes.</p> <p>14 Q Do you know what purpose Mr. Keiser requested data?</p> <p>15 A No, I don't know what data or what he wanted it</p> <p>16 for.</p> <p>17 Q And again on that day another communication from</p> <p>18 Sandler concerning McCotter's district; is that</p> <p>19 right?</p> <p>20 A That's what it indicates.</p> <p>21 Q Let's go to the next one, June 10. I read that as</p> <p>22 "reelect on data from Bill Camie" or --</p> <p>23 A Carney.</p> <p>24 Q "Carney." Thank you.</p> <p>25 Who's that?</p>	<p style="text-align: right;">Page 135</p> <p>1 A No, other than with each passing day, we're getting</p> <p>2 closer to the legislative action in the House or</p> <p>3 Senate. I don't even recall which went first.</p> <p>4 Q I'm sorry, do you recall whether you actually did</p> <p>5 provide the data to Keiser and NRCC?</p> <p>6 A I don't recall.</p> <p>7 Q Okay.</p> <p>8 MR. KNAPP: At the next available</p> <p>9 reasonable break, can we take a little break?</p> <p>10 MR. TONER: Absolutely.</p> <p>11 MR. KNAPP: Up to you.</p> <p>12 MR. TONER: Well, we've got another page</p> <p>13 and a half of the same thing, so it doesn't matter.</p> <p>14 Do you want to take a few minutes?</p> <p>15 MR. ELLSWORTH: Now is good.</p> <p>16 MR. TONER: Now is fine.</p> <p>17 MR. ELLSWORTH: That would be great, but</p> <p>18 I understand if you want to --</p> <p>19 MR. TONER: Let's stop at June 13 for a</p> <p>20 second.</p> <p>21 MR. KNAPP: All right. Thank you.</p> <p>22 (Break taken at 10:21 a.m.)</p> <p>23 (Break concluded at 10:37 a.m.)</p> <p>24 Q (MR. TONER) I think before our break we were about</p> <p>25 ready to talk about your entry on June 14, 2011.</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 136</p> <p>1 A Okay.</p> <p>2 Q A 7.5-hour amount of work of analysis of Benson</p> <p>3 plans?</p> <p>4 A Uh-huh.</p> <p>5 Q Now, is that Jocelyn Benson?</p> <p>6 A Yes.</p> <p>7 Q That's a Democrat. Were you communicating with her</p> <p>8 directly?</p> <p>9 A No.</p> <p>10 Q And for whom did you report your analysis?</p> <p>11 A To the Legislature.</p> <p>12 Q Who at the Legislature?</p> <p>13 A The majority leader staff and the speaker staff.</p> <p>14 Q Do you recall what you concluded about Benson's</p> <p>15 plans?</p> <p>16 A That they weren't very good.</p> <p>17 Q In what sense?</p> <p>18 A They split more counties -- or split more MCDs than</p> <p>19 the maps under consideration.</p> <p>20 Q The next day your entries total 8.75 hours. This</p> <p>21 is on June 15.</p> <p>22 A Uh-huh.</p> <p>23 Q Let's start with the reference to "more Roe and</p> <p>24 Dewitt re: changes to Sterling Heights and</p> <p>25 Holland."</p>	<p style="text-align: right;">Page 138</p> <p>1 A Maptitude.</p> <p>2 Q "To fix a glitch and generate core constituency</p> <p>3 reports."</p> <p>4 What's a core constituency report?</p> <p>5 A In the software it was how much of an existing</p> <p>6 district would be contained in a current</p> <p>7 district -- or a proposed district.</p> <p>8 Q And did you prepare such reports as a routine part</p> <p>9 of doing this redistricting work?</p> <p>10 A I had never done one before this point.</p> <p>11 Q Did you preserve those reports?</p> <p>12 A I have no recollection, unless they're attached to</p> <p>13 emails.</p> <p>14 Q Do you know who you gave these particular reports</p> <p>15 to?</p> <p>16 A No.</p> <p>17 Q Do you recall anything that the reports showed?</p> <p>18 A No.</p> <p>19 Q Why did you prepare them?</p> <p>20 A I don't know.</p> <p>21 Q Do you have any memory of whether they were</p> <p>22 meaningful in any way?</p> <p>23 A No.</p> <p>24 Q Next we see "changes back and forth in Kent per</p> <p>25 Amash." What is that?</p>
<p style="text-align: right;">Page 137</p> <p>1 A Uh-huh.</p> <p>2 Q Were you engaged in more negotiations about where</p> <p>3 the lines should break in those communities?</p> <p>4 A I don't recall the specifics other than what it</p> <p>5 says there.</p> <p>6 Q Okay. "County break draft language review." Tell</p> <p>7 me what that is.</p> <p>8 A I don't know.</p> <p>9 Q As part of the bill, are the breaks in counties</p> <p>10 described?</p> <p>11 A I think so.</p> <p>12 Q Okay. Do you think that might have been what you</p> <p>13 were doing, looking at draft language?</p> <p>14 A Yes.</p> <p>15 Q "Additional verification of Conyers and Clarke</p> <p>16 addresses" appears next.</p> <p>17 A Uh-huh.</p> <p>18 Q Why was it necessary to verify the addresses of</p> <p>19 those incumbents?</p> <p>20 A There was concern about pairing incumbents. There</p> <p>21 was a question about it.</p> <p>22 Q Okay. Next you say "working with Caliper"?</p> <p>23 A Caliper is the company that made the software that</p> <p>24 I used.</p> <p>25 Q Maptitude?</p>	<p style="text-align: right;">Page 139</p> <p>1 A Congressman Amash had concerns about territory in</p> <p>2 his district.</p> <p>3 Q And what kind of a political makeup is there in</p> <p>4 Kent?</p> <p>5 A It's voted for both parties.</p> <p>6 Q What was your assessment of it in 2011?</p> <p>7 A It depends on the candidate and year.</p> <p>8 Q Well, as to this particular candidate, incumbent</p> <p>9 Amash, do you know what the preference was</p> <p>10 concerning Kent?</p> <p>11 A I don't recall specifically, no.</p> <p>12 Q Do you recall generally?</p> <p>13 A No.</p> <p>14 Q Nothing about it at all?</p> <p>15 A No, I recall no details about it.</p> <p>16 Q "Much back and forth with Sandler and Daly</p> <p>17 regarding Congressional District 11" is the last</p> <p>18 part of the entry.</p> <p>19 A Uh-huh.</p> <p>20 Q What sort of back and forth was that?</p> <p>21 A I don't know.</p> <p>22 Q Was Sandler involved in discussions about</p> <p>23 Congressional District 11?</p> <p>24 A I don't know.</p> <p>25 Q Okay. June 16, an even longer day for you, 10</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 140

1 hours, you start with "much review and prep of
2 materials for public release."
3 What were you reviewing?
4 **A I don't recall.**
5 Q What materials were released to the public around
6 that time?
7 **A I don't know.**
8 Q Next part of the entry says "more with Daly and
9 Sandler." Was that concerning Congressman
10 McCotter?
11 **A Yes.**
12 Q And, lastly, "final tweaks in Sterling Heights per
13 Jamie."
14 What sort of tweaks did Jamie communicate
15 on behalf of Congresswoman Miller?
16 **A I don't recall specifically other than they were in**
17 **emails that I reviewed.**
18 Q The entries for June 17 make a reference to
19 releasing the plans to the public. Do you think
20 that's what you might have been reviewing the day
21 before?
22 **A Yes.**
23 Q Did you participate in a press roundtable
24 concerning the plans on the 17th?
25 **A I don't recall.**

Page 142

1 Q What happened to those?
2 **A They would have been discarded long ago.**
3 Q On June 18 the entry says "generating charts and
4 arguments for McNeilly." Did I read that right?
5 **A Yes.**
6 Q "Regarding Amash."
7 Who is McNeilly?
8 **A Greg McNeilly.**
9 Q And who does he work for?
10 **A He works for the Windquest Group.**
11 Q All right. At the time in 2011, did he work for
12 the DeVoses?
13 **A I believe he worked for the Windquest Group then.**
14 Q And why were you generating charts and arguments?
15 **A I don't know.**
16 Q What was that group's interest in Amash?
17 **A I don't know.**
18 Q The DeVoses run the, what is it, Windquest Group?
19 **A They do.**
20 Q Betsy DeVos is currently secretary of education?
21 **A She is.**
22 Q Let's go to the next page. I see a reference to
23 "various info to Sandler and Schostak."
24 Why were you sending informat on to
25 Schostak at that time?

Page 141

1 Q Well, you say on the 17th "prep for press
2 roundtable." Were you preparing yourself or
3 others?
4 **A I don't know.**
5 Q There's a reference here to "generating metes and
6 bounds reports as requested." Who requested them?
7 **A Legislative staff.**
8 Q On behalf of which legislators?
9 **A I don't know.**
10 Q When you found errors related to the House plans,
11 which is the last part of your entry there on June
12 17, who did you report those to?
13 **A I don't recall.**
14 Q Do you recall writing down those errors?
15 **A No.**
16 Q Do you recall the method of communicating them in
17 any way by email or phone call?
18 **A Email -- yeah, email or phone call would have been**
19 **the -- or possibly face to face.**
20 Q Did you ever prepare handwritten notes as part of
21 your work in 2011?
22 **A I don't know. I honestly don't know if I know.**
23 Q You don't know whether you wrote down notes as part
24 of your work?
25 **A From time to time it would have been conceivable.**

Page 143

1 **A I don't know.**
2 Q Schostak is a politician, right?
3 **A Is?**
4 Q Is and was in 2011?
5 **A He was the chairman of the Michigan Republican**
6 **Party in 2011.**
7 Q And so as map drawer for MRRI, why were you giving
8 him information?
9 **A Because they requested it.**
10 Q Let's jump down to June 21, 7.5 hours; do you see
11 that?
12 **A I see -- yes, on 6/21, yes.**
13 Q 6/21. "Much regarding Amash attempts to scuttle
14 plan."
15 What were those attempts?
16 **A What I recall is Amash had conversations with**
17 **friends who he had served with in the Legislature**
18 **and lobbying them to vote against the plan.**
19 Q What was your understanding of why Congressman
20 Amash would want legislators to vote against the
21 plan you prepared?
22 **A He personally didn't like it.**
23 Q Why?
24 **A I don't know.**
25 Q On June 22 your entries refer to communications

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 144

1 with "Ca-nay-dee"?
2 **A "Can-a-dee."**
3 Q Canady. Thank you.
4 **A Alan Canady.**
5 Q Alan Canady is an attorney; is that right?
6 **A He is, and at the time I think he was chief of**
7 **staff to the Senate -- or the House Democrat**
8 **leader.**
9 **And when I had mentioned earlier that I**
10 **hadn't met with Democrats, that's inaccurate based**
11 **on this. I do recall meeting with Alan on many**
12 **occasions.**
13 Q This was after the plans were released to the
14 public, right, June 22?
15 **A I don't recall when they were released to the**
16 **public. I mean, looking at this, I think it**
17 **indicates, but -- so it . . .**
18 Q Yeah, looking at this, it would indicate around
19 June 17.
20 **A Okay.**
21 Q Am I wrong?
22 **A Around then, yes, but I don't know if it was June**
23 **17 or June 23rd.**
24 Q Okay. What do you recall about the Canady-Conyers
25 plan around June 22?

Page 146

1 Q Next you describe a hubbub over Conyers and Clarke
2 addresses. What was that so-called hubbub?
3 **A There was -- someone raised concern, and I do not**
4 **recall who, that a map paired the two of them in**
5 **the same district.**
6 Q Were they correct?
7 **A No.**
8 Q Let's jump down to June 27, 6.5 hours. "Prep for
9 DW met." Does that refer to a Dickinson Wright
10 meeting?
11 **A I don't know.**
12 Q The next part of it says "DW MTG," or I take that
13 as DW meeting. Do you know what that is?
14 **A No.**
15 Q Do you recall meeting at this fine law firm around
16 that time?
17 **A There were many meetings at this law firm. I don't**
18 **recall specific ones.**
19 MR. KNAPP: I notice that you didn't say
20 "fine law firm" in your answer.
21 THE WITNESS: Fine law firm. Please let
22 that be corrected.
23 Q (MR. TONER) Do you recall any discussions in
24 those -- in a meeting here at Dickinson Wright at
25 that time?

Page 145

1 **A I recall that Alan proposed tweaking the split in**
2 **the city of Detroit between Congressional District**
3 **13 and 14.**
4 Q Did that happen? Were those tweaks adopted?
5 **A I don't recall.**
6 Q There's a reference to shape in the next part of
7 your entry there: "Various possible changes to
8 Congressional District 11 and others for shape."
9 What were you doing?
10 **A I don't know.**
11 Q Well, doesn't shape refer to the basic shape and
12 appearance of the congressional districts?
13 **A I don't know.**
14 Q Do you think you were editing shape files, the
15 actual GIS information?
16 **A I don't know.**
17 Q Do you know who you were discussing possible
18 changes with?
19 **A No.**
20 Q Let's move to the next day, June 23. "Hypothetical
21 plan and call."
22 What was the hypothetical plan?
23 **A I don't know.**
24 Q Who proposed it?
25 **A I have no idea.**

Page 147

1 **A Specific -- I don't have any specific recollection**
2 **of discussions.**
3 Q What was the status of the plan in late June 2011?
4 **A At this point I believe it had passed one of the**
5 **houses, maybe both, I don't know.**
6 Q There's a reference there on that same day, June
7 27, to "Canady map analysis"?
8 **A Uh-huh.**
9 Q Do you know who you reported that to?
10 **A No.**
11 Q It ends with "Export shape files for Camie"?
12 **A Carney.**
13 Q Carney. Thanks. What was that work, and who is
14 Carney?
15 **A Bill Carney, I had mentioned earlier, is a Senate**
16 **staff. I don't know the specifics of the work.**
17 Q Do you think it was congressional district shape
18 files or something else?
19 **A I don't know.**
20 Q On June 28 I see at the very end of your time
21 description that day "DW meeting." Do you happen
22 to recall whether there was a meeting at this --
23 Dickinson Wright at that time?
24 **A I do not recall being at this fine law firm on June**
25 **28th.**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 148</p> <p>1 Q Seeing your entry, though, do you have any reason</p> <p>2 to believe that didn't occur?</p> <p>3 A No.</p> <p>4 Q Let's turn the page to Invoice 3877 dated August 22</p> <p>5 for July consulting.</p> <p>6 A Uh-huh.</p> <p>7 Q Do you believe that bill included work that you</p> <p>8 performed on map drawing?</p> <p>9 A Yes.</p> <p>10 Q And do you think it accurately reflects your time,</p> <p>11 or was MRRI given a little break on the bill?</p> <p>12 A I think it would have accurately reflected my time.</p> <p>13 Q Okay. Is it fair to say the bulk of your time</p> <p>14 there was devoted to getting the redistricting plan</p> <p>15 finalized and adopted?</p> <p>16 A I don't recall what happened in July. I think they</p> <p>17 had already passed the Legislature.</p> <p>18 Q Okay. The next invoice, Number 3880 dated</p> <p>19 September 1 refers to August time.</p> <p>20 Do you know whether this bill included</p> <p>21 map drawing work?</p> <p>22 A I don't know if it involved map drawing</p> <p>23 specifically, I don't know.</p> <p>24 Q Okay. Well, let's turn the page to your detailed</p> <p>25 time reports for the month of August --</p>	<p style="text-align: right;">Page 150</p> <p>1 A No.</p> <p>2 Q On August 11 and on August 9 I guess I see</p> <p>3 references to "Sarpolus water issue"?</p> <p>4 A Uh-huh.</p> <p>5 Q Who is Sarpolus?</p> <p>6 A Ed Sarpolus.</p> <p>7 Q Is he a consultant of some kind?</p> <p>8 A Yes.</p> <p>9 Q What's the water issue you're referring to?</p> <p>10 A There were articles in MIRS and other publications</p> <p>11 where Ed had indicated there was some territory not</p> <p>12 included in the legislative plans.</p> <p>13 Q And what's that got to do with water?</p> <p>14 A The territory that he was referring to was in the</p> <p>15 Great Lakes or Lake St. Clair.</p> <p>16 Q Islands or --</p> <p>17 A No.</p> <p>18 Q No? Okay. Was that worked out or . . . ?</p> <p>19 A I don't recall the specifics.</p> <p>20 Q On August 15 I see a reference to "maps for</p> <p>21 Schostak"?</p> <p>22 A Uh-huh.</p> <p>23 Q Why were you providing maps to him at that time?</p> <p>24 A I don't recall.</p> <p>25 Q And there the last couple of entries I see "calls</p>
<p style="text-align: right;">Page 149</p> <p>1 A Okay.</p> <p>2 Q -- and see if that refreshes your recollection.</p> <p>3 A Okay.</p> <p>4 Q On August 1 two hours were spent on revisions to</p> <p>5 Supreme Court maps. Who did you do that work for?</p> <p>6 A MRRI.</p> <p>7 Q At the request of whom, LaBrant or somebody else?</p> <p>8 A Bob LaBrant.</p> <p>9 Q Okay. Let's see. Then there's a reference on the</p> <p>10 4th to "Murley, Ellsworth, and Reid, State House</p> <p>11 Detroit, various analysis."</p> <p>12 Do you know what kind of analysis you</p> <p>13 were doing there?</p> <p>14 A No, I don't.</p> <p>15 Q Do you know who you reported your analysis to?</p> <p>16 A I don't.</p> <p>17 Q On the next several days there are references to</p> <p>18 revisions in Detroit and Detroit districts. What</p> <p>19 was that about?</p> <p>20 A There was a period of a few days in August of 2011</p> <p>21 where there were negotiations with the legislative</p> <p>22 black caucus members before the bill was signed,</p> <p>23 the redistricting bills were signed by the</p> <p>24 governor, about possible changes.</p> <p>25 Q Were the changes adopted?</p>	<p style="text-align: right;">Page 151</p> <p>1 with Stuckey and LaBrant" and, finally, "delivery</p> <p>2 to BL." Is that Bob LaBrant?</p> <p>3 A I don't know. Those are his initials, but . . .</p> <p>4 Q Right. Do you recall what you may have been doing</p> <p>5 for LaBrant there at the end of August?</p> <p>6 A It indicates previous to that two updated Supreme</p> <p>7 Court plan versions.</p> <p>8 Q Okay. When was the districting analysis of Supreme</p> <p>9 Court districts put to rest?</p> <p>10 A I don't recall that it ever was anything but rest.</p> <p>11 Q Well, you devoted some real time to it, right?</p> <p>12 A Yeah. I don't remember when it ended.</p> <p>13 Q All right. Thanks.</p> <p>14 A Uh-huh.</p> <p>15 (Deposition Exhibit Number 144</p> <p>16 was marked for identification.)</p> <p>17 Q (MR. TONER) Do you recognize Exhibit 144 as a</p> <p>18 memorandum that you helped prepare?</p> <p>19 A Yes.</p> <p>20 Q Is it fair to say you were the primary author of</p> <p>21 this document?</p> <p>22 A Yes.</p> <p>23 Q As I read this, my reaction is it's sort of a pitch</p> <p>24 piece on getting the redistricting work for 2011.</p> <p>25 Is that a fair description?</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 152

1 **A No.**
2 Q Okay. How do you describe it?
3 **A I describe it as an attempt to quantify and clarify**
4 **the compensation for anticipated work.**
5 Q Was a more formal engagement letter or contract
6 executed between Sterling Corporation and MRRI?
7 **A Not to my recollection.**
8 Q Did Mr. LaBrant agree to the pricing proposed in
9 Exhibit 144?
10 If you look at the last page there are
11 some figures. Do you see the \$300,000 reference?
12 **A I believe the answer is no.**
13 Q About how much was paid to Sterling Corporation for
14 this work?
15 **A As I said last week, my recollection was \$150,000,**
16 **roughly, for my work.**
17 Q Back on page 1 you have this wonderful quote from
18 Yogi Berra. Let's talk about why, in your mind,
19 this was "déjà vu all over again."
20 One of the big considerations in
21 comparing 2001 to 2011 is that the Republicans were
22 in control, right?
23 **A Correct. And they had a responsibility to enact**
24 **legislation to pass redistricting plans.**
25 Q Yes, of course. And one of the goals of Sterling

Page 154

1 **business to maximize our expertise and client base.**
2 Q At the beginning of 2011, end of 2010, you
3 anticipated that litigation was likely concerning
4 the redistricting plans, right?
5 **A Uh-huh.**
6 Q Did you make an effort to preserve notes,
7 documents, and records in anticipation of potential
8 litigation?
9 **A I don't recall specifically, no.**
10 Q If you'll turn to what's Bates Number Timmer417, at
11 the bottom do you see where it says "7.
12 Population/Demographic Forecasting" there at the
13 top?
14 **A Oh, yes.**
15 Q I see a sentence that says "Another large hurdle
16 will be to expertly forecast the changing
17 demographic and political changes in these new
18 districts that are likely to occur over the ensuing
19 decade?"
20 **A Uh-huh.**
21 Q As you went about your work on redistricting, did
22 you try to take a decade-long focus on what the
23 results of this plan would be?
24 **A No, they did -- there was no investment made in**
25 **predictive technology.**

Page 153

1 Corporation was to help make that a successful
2 conclusion, right?
3 **A I was involved in helping them pass the legislative**
4 **plans that were enacted into law.**
5 Q Yeah, but in the very first paragraph here you talk
6 about how Sterling Corporation navigated the
7 process to a successful conclusion in 2001?
8 **A Uh-huh. Uh-huh.**
9 Q What did you mean by that?
10 **A They enacted bills that were signed by the governor**
11 **in 2001.**
12 Q And those bills produced Republican majority in the
13 House, the Senate, and congressional delegation?
14 **A Those bills produced legislative plans and**
15 **congressional plans that were adopted and enacted**
16 **into law.**
17 Q If you jump down four paragraphs you talk about
18 "Managing all the aspects of this progress are
19 going to require a number of different things
20 including money, money, money, and money,"
21 mentioned four times in that sentence?
22 **A Uh-huh.**
23 Q Was it important to Sterling Corporation to get
24 this work?
25 **A No more so than any other client, yes. We were in**

Page 155

1 Q Right. But you focus for your client here on
2 political changes over the ensuing decade. What
3 political changes were you referring to?
4 **A I don't recall specifically other than what it says**
5 **here.**
6 Q That has no meaning to you?
7 **A Demographic and political changes.**
8 Q Right. No meaning at all?
9 **A No.**
10 Q Well, you say "Creating a reliable crystal ball
11 that will portray these districts in 2014 election,
12 2018 election, 2020 election will be
13 extraordinarily valuable."
14 Valuable to whom?
15 **A To participants in the legislative and political**
16 **process.**
17 Q Including the Michigan Chamber of Commerce and the
18 Republican Party, right?
19 **A No, the Michigan Chamber of Commerce wasn't**
20 **involved. Michigan Redistricting Resource**
21 **Institute was.**
22 Q Right. In what way would that be valuable to MRRI,
23 a reliable crystal ball?
24 **A That would be a question better directed to**
25 **Mr. LaBrant or somebody who had an official role**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 156</p> <p>1 with MRRI.</p> <p>2 Q Let's jump down to fundraising towards the bottom</p> <p>3 of the page. You talk about the goal of</p> <p>4 "accumulating an additional 1.8 to \$2.1 million on</p> <p>5 top of the money raised to date."</p> <p>6 About how much money had been raised by</p> <p>7 the end of 2010?</p> <p>8 A I have no idea.</p> <p>9 Q How did you come up with these figures?</p> <p>10 A I don't -- I don't think I did.</p> <p>11 Q Do you recall any discussions with Mr. LaBrant or</p> <p>12 others about what the fundraising goal should be?</p> <p>13 A No.</p> <p>14 Q Let's go to page 418, paragraph number 4, "Drafting</p> <p>15 Legislative Plan Contingencies."</p> <p>16 A Uh-huh.</p> <p>17 Q You say -- you have a wonderful parenthetical at</p> <p>18 the end: "Besides, everyone is going to be drawing</p> <p>19 secret contingency plans beyond their particular</p> <p>20 area of responsibility."</p> <p>21 How many secret contingency plans did</p> <p>22 Sterling Corporation prepare for MRRI?</p> <p>23 A I have no idea if any were prepared.</p> <p>24 Q But you said everyone was going to do it.</p> <p>25 A That was my recollection of previous redistricting</p>	<p style="text-align: right;">Page 158</p> <p>1 Bureau.</p> <p>2 Q Okay. And then Combat Data formatted that for your</p> <p>3 use, right?</p> <p>4 A Yes.</p> <p>5 Q Sterling Corporation was not hired by any lawyer or</p> <p>6 law -- strike that -- was not hired by any law firm</p> <p>7 to do redistricting work in 2011, was it?</p> <p>8 A I do not believe so.</p> <p>9 Q Page 419 has a paragraph that says "Public</p> <p>10 Relations," Number 10; do you see that?</p> <p>11 A Uh-huh, I do.</p> <p>12 Q And you write as the last sentence: "While the</p> <p>13 public does not have a vote in the process, they</p> <p>14 can influence their legislators and judicial</p> <p>15 opinion. We don't necessarily have to win public</p> <p>16 support, but we must stop the opposition of gaining</p> <p>17 any traction with the electorate."</p> <p>18 Who is the opposition?</p> <p>19 A Whoever was opposing passage and adoption of the</p> <p>20 plan.</p> <p>21 Q Who did you expect the opposition to be?</p> <p>22 A One example would be Mr. Brewer.</p> <p>23 Q Who else?</p> <p>24 A Other Democrats in the state perhaps.</p> <p>25</p>
<p style="text-align: right;">Page 157</p> <p>1 cycles.</p> <p>2 Q Right. So everybody made up secret plans in 2001,</p> <p>3 and you expected the same in 2011?</p> <p>4 A Yes.</p> <p>5 Q On Paragraph Number 6 you write "We will oversee</p> <p>6 and coordinate the analysis of demographic and</p> <p>7 political data."</p> <p>8 Did, in fact, you and others at Sterling</p> <p>9 Corporation do that?</p> <p>10 A No.</p> <p>11 Q How did you fall short?</p> <p>12 A That we were never -- we weren't asked to do that.</p> <p>13 Q You never analyzed demographic and political data?</p> <p>14 A We produced demographic and political data based on</p> <p>15 the plans that we were directed or -- that we</p> <p>16 produced.</p> <p>17 Q I mean, Sterling Corporation hired Combat Data to</p> <p>18 assemble political data, right?</p> <p>19 A Combat Data didn't -- all they did was provide an</p> <p>20 election database that would be applicable to the</p> <p>21 geography and the software. They had no role in</p> <p>22 analysis.</p> <p>23 Q Who provided Combat Data with the information for</p> <p>24 that database?</p> <p>25 A I assume it was the Secretary of State Elections</p>	<p style="text-align: right;">Page 159</p> <p>1 (Deposition Exhibit Number 145</p> <p>2 was marked for identification.)</p> <p>3 Q (MR. TONER) Do you recognize Exhibit 145 as an</p> <p>4 email you received from Bob LaBrant around December</p> <p>5 22, 2010?</p> <p>6 A Yes.</p> <p>7 Q This email forwards a message to Mr. LaBrant from</p> <p>8 Congressman McCotter; is that right?</p> <p>9 A Yes.</p> <p>10 Q What did you understand the congressman to be</p> <p>11 talking about in the first sentence: "Senator Hune</p> <p>12 wrongly parroted left's BS line on Apol in Freep"?</p> <p>13 A I don't know. I don't recall.</p> <p>14 Q Did you call Mr. LaBrant and ask him?</p> <p>15 A I have no recollection.</p> <p>16 Q Did you call Congressman McCotter or communicate</p> <p>17 with his staff about this?</p> <p>18 A No, I have no recollection of anything regarding</p> <p>19 this email other than having reviewed it.</p> <p>20 Q Did you agree with it?</p> <p>21 A I don't know.</p> <p>22 Q Do you agree with it today?</p> <p>23 A I agree there's discretion based on LeRoux.</p> <p>24 Q Do you think it's wide discretion?</p> <p>25 A I believe that there's -- that --</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 160

1 Q This is w de all caps in a Trump-like fash on,
2 right?
3 **A Yeah, I didn't -- it's not my caps. So, no, I have**
4 **no recollection of this email.**
5 **(Deposition Exhibit Number 146**
6 **was marked for identification.)**
7 Q (MR. TONER) Mr. Timmer, I wonder if you can help me
8 place this document in time a little b t better.
9 It has a low Bates number from the production we
10 received, and it's pages 83 to 88, and I'm
11 wondering if you recall preparing t.
12 **A No, I do not recall specifically.**
13 Q Okay. The maps here all refer to congressional
14 districts, right?
15 **A This map on the first page --**
16 Q Yes.
17 **A -- it appears to be a congressional district map --**
18 Q And the other --
19 **A -- but I --**
20 Q -- pages are also congressional district portions;
21 is that true?
22 **A I haven't looked at the other pages. I only see 10**
23 **districts, so I'm not . . .**
24 Q This may help. If you turn to the last page, do
25 you see there elect on data for the 15 distr cts in

Page 162

1 **advantage.**
2 Q In 15 distr cts, but what about if we look at 14
3 distr cts?
4 **A I'm looking at --**
5 Q Oh, you're right. You're right. You're right.
6 Sorry, I counted incorrectly.
7 Okay. Does that help you place it any
8 better in time?
9 **A No, I have no -- I mean, I don't know who produced**
10 **these. I don't know if I did. The chart does not**
11 **look like something that I produced. I don't have**
12 **any recollection.**
13 Q The title there on the last page that says
14 "Delegation Map," does that suggest to you this may
15 have been prepared by the Republ can Congress onal
16 Delegation?
17 **A I have -- I honestly don't know.**
18 Q This was not a map adopted by the M chigan
19 Legislature, is it?
20 **A No, it does not appear to be.**
21 Q Okay.
22 (Depos t on Exhibit Number 147
23 was marked for identification.)
24 Q (MR. TONER) Exhibit 147 was produced to us from
25 your documents. Can you tell me what t is?

Page 161

1 2001 and the 14 distr cts in 2011?
2 **A Yes, I see this table.**
3 Q Right. And that's a table that tabulates
4 Republican votes for voters in those particular
5 districts, correct?
6 **A I assume -- it looks like it does. I don't -- I**
7 **don't recall.**
8 Q What does PVI refer to in your trade?
9 **A Partisan voting index.**
10 Q When a partisan voting index is expressed in this
11 way, what does it mean to you? By that I mean R+7
12 or D+32.
13 **A That Republicans and Democrats use PVI to try to**
14 **quantify behavior, political behavior.**
15 Q And this data here, am I right, would suggest that
16 the Democrats would have overwhelming majority in
17 at least three of the districts and a strong
18 majority in one of them?
19 **A Are we looking at the current -- the -- when this**
20 **is current?**
21 Q Correct. Well, actually, the delegation -- yeah.
22 **A All --**
23 Q I mean as I --
24 **A This table shows that there are one, two, three,**
25 **four, five that indicate that there's a D**

Page 163

1 **A It appears to be a county commission map of Oakland**
2 **County. County commission district.**
3 Q Okay. Do the blue and red circles have meaning to
4 you?
5 **A I can't say with certainty.**
6 Q Do you recall whether you or others at Sterling
7 prepared this?
8 **A No, I can't tell from this who and where it was**
9 **produced.**
10 Q All right.
11 (Deposition Exhibit Number 148
12 was marked for identificat on.)
13 Q (MR. TONER) Do you recognize Exhib t 148 as,
14 essentially, Outlook meeting requests from around
15 January 24, 2011?
16 **A It appears to be a meeting request, yes, an Outlook**
17 **meeting request.**
18 Q And the subject says "Update redistr cting meeting
19 w th House Republicans."
20 Do you recall part cipating in a meeting
21 around January 27 at Michigan Chamber?
22 **A No.**
23 Q Were there regular meetings at that location to
24 discuss redistricting?
25 **A I don't recall any.**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 164

1 Q Do you recall other meetings among the participants
2 who received this invitation, Linder, Timmer, Hune,
3 Bean, and Edgerton?
4 **A Hune -- myself, Hune, Bean, Edgerton I recall in**
5 **meetings. I don't recall Linder ever being**
6 **involved.**
7 Q What other meetings occurred during redistricting?
8 By that were there any regularly scheduled
9 meetings?
10 **A I don't think so.**
11 Q Or if there were, you weren't a participant?
12 **A Regularly -- I don't recall regularly scheduled**
13 **meetings, I recall frequent meetings.**
14 Q Either every week or every other week and sometimes
15 more often; is that a fair description?
16 **A Yes.**
17 Q Okay.
18 (Deposition Exhibit Number 149
19 was marked for identification.)
20 Q (MR. TONER) Is Exhibit 149 an email you prepared
21 and an email you received from Mr. LaBrant on
22 February 21, 2011?
23 **A Okay.**
24 Q And do you recognize the attachments as a draft
25 plan that you prepared?

Page 165

1 **A The attachments look to be Maptitude congressional**
2 **plans, but this was prior to the census data being**
3 **released.**
4 Q The first sentence of your email says "Here are
5 maps that show the scenarios we discussed"?
6 **A Uh-huh.**
7 Q What scenarios had you and Mr. LaBrant discussed at
8 that time?
9 **A I have no recollection.**
10 Q Does looking at these maps refresh your
11 recollection at all?
12 **A No, other than there's various configurations of**
13 **northern Michigan.**
14 Q Your email to Mr. LaBrant talks about placing
15 Grand Traverse in District 4, District 1, and two
16 different --
17 **A Uh-huh.**
18 Q -- configurations in District 2, right?
19 **A Yes, that's what the email indicates.**
20 Q You say "I believe it may be possible to eliminate
21 one county break should we desire to do so"?
22 **A Uh-huh.**
23 Q Was it your view that that was optional under the
24 Apol criteria?
25 **A No, under the criteria, minimizing county breaks**

Page 166

1 **was a requirement. But, as I've mentioned before,**
2 **there was latitude that the legislators took in**
3 **passing -- potentially -- potential latitude in**
4 **what they would take in passing plans. And in**
5 **regards to the congressional plan, I minimize**
6 **county breaks to the extent possible, to the best**
7 **of my knowledge.**
8 Q When you used the word "we" in that sentence, are
9 you referring to you and Mr. LaBrant or a more
10 royal "we"?
11 **A I would refer to myself in the third person if I**
12 **was doing that.**
13 **No, I don't know who "we" refers to.**
14 Q Well, I want to know if you're referring to the
15 Republican Party generally? The Legislature?
16 **A The Legislature would be my guess, or legislative**
17 **map drawers.**
18 Q Not long after this email, was there a meeting in
19 DC with the congressional delegation?
20 **A Not that I recall. There could be, I don't know.**
21 Q Did you participate in such a meeting around that
22 time in DC?
23 **A I recall a meeting in Washington. I don't know**
24 **what time. I don't know when it was.**
25 Q Was it before your heaviest work in May and July --

Page 167

1 May and June?
2 **A I can't say for certain it wasn't in May.**
3 Q Who did you meet with in DC?
4 **A I recall a meeting with the congressional -- where**
5 **several members of the congressional delegation**
6 **were present. I do not think it was all members of**
7 **the congressional delegation.**
8 Q Which members do you recall being present?
9 **A Mike Rogers, Thad McCotter, Dave Kamp, Candice**
10 **Miller, and there could have been others, I don't**
11 **recall.**
12 Q Were any Democrats present, that you recall?
13 **A No.**
14 Q Included with these maps is election result
15 information for each of the proposed districts,
16 right?
17 **A Yes.**
18 Q When I look at the columns on the second page, page
19 1089, for example, I see headings that refer --
20 like here's one that says POTUS 08R?
21 **A Uh-huh.**
22 Q Is that a tabulation of votes in the presidential
23 election in 2008 for the Republican?
24 **A Yes, that's what they refer to.**
25

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 168

1 (Deposition Exhibit Number 150
2 was marked for identification.)
3 Q (MR. TONER) Do you recognize Exhibit 150 as two
4 emails that you and Mr. LaBrant exchanged on March
5 5 and March 6 of 2011 and an attached draft
6 congressional district map?
7 **A That's what it appears to be, yes. I wouldn't have**
8 **known the time -- or the dates without them being**
9 **indicated here.**
10 Q You don't have any reason to question --
11 **A No.**
12 Q -- the dates here, do you?
13 **A No.**
14 Q Okay. The subject line of this email is
15 "Quasi-post DC plan." What does that mean?
16 **A That's a heck of a subject. I -- I -- it indicates**
17 **it's not a complete plan is what it would indicate**
18 **to me. I don't know what's incomplete about it,**
19 **but the quasi would be incomplete in some way.**
20 Q Well, in your March 5 email you tell Bob LaBrant
21 that the attachment "captures the bulk of what we
22 heard at the -- heard the co-del --" that's
23 congressional delegation, right?
24 **A Uh-huh.**
25 Q "-- indicate they'd like to see."

Page 170

1 **A I don't recall.**
2 Q Well, based on all your years of expertise, do you
3 have any opinion on how that would completely screw
4 the congressman?
5 **A Based on my recollection, this had to do more with**
6 **his personal concerns as opposed to partisan**
7 **concerns.**
8 Q What were his nonpartisan concerns?
9 **A I said personal concerns.**
10 Q Yeah, I'm trying to figure out what they were if
11 they weren't partisan.
12 **A That I don't know.**
13 Q Did he tell you about those concerns?
14 **A No.**
15 Q But you formed this conclusion that he would be
16 completely screwed somehow?
17 **A I don't recall this other than having -- you know,**
18 **reading it here now. I don't recall what I was**
19 **thinking or knew then.**
20 Q Do you have any reason to believe you were
21 incorrect at the time that the proposal would
22 completely screw Walberg?
23 **A I'm not certain of the context.**
24 Q In this proposal, would there be four proposed
25 districts occupied by Democrats and nine occupied

Page 169

1 And I take that this is a plan that you
2 prepared following a meeting with the delegation?
3 **A Yes.**
4 Q When you write "Keeping both West Bloomfield and
5 the Farmingtons out of Thad's seat completely
6 screws Walberg," what did you mean?
7 **A My recollection of the meeting in Washington and**
8 **what I'm referring to there is asking the members**
9 **or their staff to provide the area of their**
10 **district that they would most like to continue to**
11 **represent.**
12 Q In what sense would the plan completely screw
13 Walberg?
14 **A On -- by not giving him the territory that he would**
15 **most desire.**
16 Q Is that the -- well, what -- help me understand
17 with respect to these townships what he most
18 desired at that time. "He ends up with not only
19 Scio and Pottsville Townships in Washtenaw." What
20 is that referring to?
21 **A Just as it says.**
22 Q Are those Republican townships or Democrat
23 townships?
24 **A Both I believe.**
25 Q Well, in what way would he be screwed completely?

Page 171

1 by Republican incumbents?
2 **A I -- I don't know without looking at where the**
3 **incumbents lived. I don't -- that doesn't seem to**
4 **be indicated on here. I see it listed here. 13 --**
5 **item Number 13 says "Congressional Districts 13 and**
6 **14." So this would indicate to me that there are**
7 **14 districts. And looking at the map, the area**
8 **labeled Number 14 includes the territory comprising**
9 **two congressional districts that hadn't been**
10 **completed. This was incomplete data prior to the**
11 **census. This was -- there was no official census**
12 **data at this point.**
13 Q I notice the political table at the bottom doesn't
14 have a District 13 showing election results, does
15 it?
16 **A No.**
17 Q Those election results there at the bottom that you
18 included, do they have anything to do with
19 satisfying Apollonia?
20 **A That likely wasn't the question that was being**
21 **asked and why they were provided.**
22 Q Let's take a look at what you say about proposed
23 Congressional District 11. You discuss the basics
24 of the attached map. You say with regard to
25 McCotter in District 11 "Numbers in this seat are

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 172</p> <p>1 slightly better than the Rogers seat."</p> <p>2 Are you referring to the number of likely</p> <p>3 Republican voters?</p> <p>4 A I don't know what specifically I'm referring to.</p> <p>5 Q When you say at the end of that sentence "Any GOPer</p> <p>6 should fare quite well here," was it your view at</p> <p>7 the time that there would be a strong Republican</p> <p>8 majority if the district were drawn that way?</p> <p>9 A That was my view that that was a typical question</p> <p>10 that was asked once we had satisfied the Apol</p> <p>11 criteria.</p> <p>12 Q Well, giving Miller precisely what she asked for,</p> <p>13 would that have helped satisfy the Apol criteria as</p> <p>14 to District 10?</p> <p>15 A It must have.</p> <p>16 Q Why?</p> <p>17 A Because I would have ensured in any final plan that</p> <p>18 that was the case.</p> <p>19 Q So she was asking you about the number of county</p> <p>20 breaks and municipal breaks?</p> <p>21 A I don't recall her asking me anything directly.</p> <p>22 Q Or were you telling her about the number of breaks?</p> <p>23 A I would have counted the number of breaks.</p> <p>24 Q I mean, were these representatives focused on Apol</p> <p>25 or were they focused on the -- on who folks voted</p>	<p style="text-align: right;">Page 174</p> <p>1 A Uh-huh.</p> <p>2 Q Why did you feel it was helpful to provide more</p> <p>3 detail on the proposed plan?</p> <p>4 A I have no recollection.</p> <p>5 Q These bar graphs that start on the third page of</p> <p>6 this exhibit, is that information that -- or is</p> <p>7 that a format, rather, that is produced by</p> <p>8 Mapitude?</p> <p>9 A It looks unfamiliar to me, but I don't know.</p> <p>10 Q Is it likely that you prepared it?</p> <p>11 A The fact that it was attached to my email indicates</p> <p>12 that.</p> <p>13 Q Yeah.</p> <p>14 A But it almost looks beyond my capability, but I --</p> <p>15 Q Don't sell yourself short.</p> <p>16 Okay. Do the bar graphs roughly -- I</p> <p>17 won't hold you to every figure here, but do they</p> <p>18 correspond with the overall state map we see on</p> <p>19 page 2?</p> <p>20 A Yes.</p> <p>21 (Deposition Exhibit Number 152</p> <p>22 was marked for identification.)</p> <p>23 Q (MR. TONER) Do you agree that Exhibit 152 are</p> <p>24 several emails that you exchanged with Jack Daly on</p> <p>25 March 23 of 2011?</p>
<p style="text-align: right;">Page 173</p> <p>1 for in prior elections?</p> <p>2 A They were focused on their own districts.</p> <p>3 (Deposition Exhibit Number 151</p> <p>4 was marked for identification.)</p> <p>5 Q (MR. TONER) Go ahead and take a minute to look over</p> <p>6 Exhibit 151. Do you recognize the exhibit as a set</p> <p>7 of proposed maps that you prepared and forwarded to</p> <p>8 Mr. LaBrant around March 8, 2011?</p> <p>9 A Not specifically. I assume that they were attached</p> <p>10 to this email that's on the top, but I have no</p> <p>11 specific recollection of having produced charts</p> <p>12 that look like this or bar graphs.</p> <p>13 Q Do you have any reason to believe these are not --</p> <p>14 A No.</p> <p>15 Q -- maps you prepared?</p> <p>16 A No.</p> <p>17 Q Okay. And each of these is a different detail on</p> <p>18 congressional districts, right? In other words, we</p> <p>19 haven't slipped any House or Senate districts in</p> <p>20 here, have we?</p> <p>21 A They all seem to be congressional districts prior</p> <p>22 to the census data being released.</p> <p>23 Q The date on this is a couple days after the last</p> <p>24 exchange you had, the prior exhibit with Bob</p> <p>25 LaBrant?</p>	<p style="text-align: right;">Page 175</p> <p>1 A There appears to be one reply from me in the middle</p> <p>2 of two emails from Jack Daly.</p> <p>3 Q If we start at the bottom, did Daly send you an</p> <p>4 email on March 23 in which he said, "Jeff, can you</p> <p>5 plug this into your software and generate</p> <p>6 population and election results reports"?</p> <p>7 A Yes, that's what the email indicates.</p> <p>8 Q Did you, in fact, prepare that for him?</p> <p>9 A I have no idea.</p> <p>10 Q What did you mean when you wrote "Thanks, Jack.</p> <p>11 Interesting numbers overall"?</p> <p>12 A I don't know. I don't know what it was he was</p> <p>13 asking me to plug into the software.</p> <p>14 Q Well, his email indicates there might have been two</p> <p>15 attachments, would you agree with me, one called</p> <p>16 "Better CD" dated March 22, a JPEG file --</p> <p>17 A Uh-huh.</p> <p>18 Q -- and then "Stats for Better CD," same date, an</p> <p>19 Excel spreadsheet? Does that refresh your</p> <p>20 recollection on whether he provided you some</p> <p>21 proposed congressional districts and statistics?</p> <p>22 A Other than what it indicates here, I have no</p> <p>23 recollection.</p> <p>24 Q Do you recall Mr. Daly saying to you in an email</p> <p>25 "In a glorious way that makes it easier to cram all</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 176</p> <p>1 of the Dem garbage in those counties in only four</p> <p>2 distr cts"?</p> <p>3 A I see that it says that, and I've read about it in</p> <p>4 the past month or so in news accounts.</p> <p>5 Q All right. And after you received that message</p> <p>6 from Daly, d d you take his last sentence there as</p> <p>7 a rhetorical question? "Is there anyone on our</p> <p>8 s de who doesn't recognize that dynamic?"</p> <p>9 A My recollection is I didn't think too deeply about</p> <p>10 anything Jack Daly suggested or sent to me.</p> <p>11 Q Did you respond to him?</p> <p>12 A Not to -- not that I'm aware of.</p> <p>13 Q Did you ever try and straighten him out on his</p> <p>14 views about Democrat c garbage?</p> <p>15 A No, I didn't see that as my role. I didn't agree</p> <p>16 with it.</p> <p>17 Q Did you forward this on to anyone?</p> <p>18 A I don't know.</p> <p>19 Q At least not that you recall?</p> <p>20 A No, I don't.</p> <p>21 Q Do you have any recollection of what the better CD</p> <p>22 might have referred to?</p> <p>23 A No.</p> <p>24 Q Need a break?</p> <p>25 A Soon.</p>	<p style="text-align: right;">Page 178</p> <p>1 Q And then you go on in the sentence to say "Until</p> <p>2 such time as when the official database being</p> <p>3 compiled by Eric Swanson's bureau will be</p> <p>4 available."</p> <p>5 What is Eric Swanson's bureau?</p> <p>6 A That was the -- I don't know the title of his</p> <p>7 bureau. I don't know what it was called. I think</p> <p>8 it had various titles over the years.</p> <p>9 Q Is t part of the government of the State of</p> <p>10 Michigan?</p> <p>11 A It is.</p> <p>12 Q D d it ever become available?</p> <p>13 A I -- not to me. It became available to the</p> <p>14 Democrats and Republicans in the Legislature and to</p> <p>15 the governor's office and Secretary of State I</p> <p>16 believe.</p> <p>17 Q You say "The official one will be much more</p> <p>18 accurate."</p> <p>19 Is there a reason why you didn't ask for</p> <p>20 it or ask for access?</p> <p>21 A That -- my understanding at the time was it was</p> <p>22 part of the agreement signed by all the legislative</p> <p>23 leaders and governor that it not be shared</p> <p>24 outside the state software.</p> <p>25 Q What purpose d d this database referred to in</p>
<p style="text-align: right;">Page 177</p> <p>1 MR. TONER: Yeah, let's take one. That's</p> <p>2 fine.</p> <p>3 (Break taken at 11:44 a.m.)</p> <p>4 (Break concluded at 12:03 p.m.)</p> <p>5 (Deposition Exhibit Number 153</p> <p>6 was marked for identif cation.)</p> <p>7 Q (MR. TONER) Mr. Timmer, I want to ask you about</p> <p>8 your April 5 email to Bob LaBrant and Stu Sandler</p> <p>9 that we've marked as Exhibit 153. The subject line</p> <p>10 says "Elect on history database is now operable."</p> <p>11 What database is that?</p> <p>12 A The election history database supplied by Combat</p> <p>13 Data.</p> <p>14 Q So that's going to show election results going back</p> <p>15 how far?</p> <p>16 A I don't recall.</p> <p>17 Q "Hat tip to Mr. Bellgowan" is the first thing you</p> <p>18 write. Is he with Combat Data?</p> <p>19 A Yes.</p> <p>20 Q You then write "We now have solid (as reasonably</p> <p>21 accurate as the data we have been using for the</p> <p>22 past 1.5 years) data to work with."</p> <p>23 And you're referring there to election</p> <p>24 result data, right?</p> <p>25 A Uh-huh. Yes.</p>	<p style="text-align: right;">Page 179</p> <p>1 Exhibit 143 serve for you as you did your</p> <p>2 redistricting work?</p> <p>3 MR. KNAPP: Exhibit 153, Kevin?</p> <p>4 MR. TONER: Yes.</p> <p>5 THE WITNESS: It would have answered the</p> <p>6 questions that most people asked.</p> <p>7 Q (MR. TONER) By "most people" you mean members of</p> <p>8 the Legislature or congressional delegation?</p> <p>9 A Republicans and Democrats alike when looking at</p> <p>10 redistricting plans seemed to frame things in the</p> <p>11 context of election history.</p> <p>12 Q How often d d you get quest ons from Democrats in</p> <p>13 2011?</p> <p>14 A Questions?</p> <p>15 Q Yes.</p> <p>16 A Perhaps -- well, occasionally, as I refreshed my</p> <p>17 memory with the meetings with Alan Canady.</p> <p>18 Q That would have been after the plans were</p> <p>19 published, right?</p> <p>20 A It's possible it was before as well. I don't -- I</p> <p>21 don't recall.</p> <p>22 Q If t did occur before, you haven't seen any</p> <p>23 detailed time reports ind cating that that's the</p> <p>24 case, do you?</p> <p>25 A Correct.</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 180

1 Q Okay. It's fair to say you were pleased to have
2 access to this database from Combat Data?
3 A My recollection of this -- circumstances
4 surrounding this particular email were I was
5 getting lots of questions that I was unable to
6 answer up until this point.
7 Q The database then made life a little easier for
8 you?
9 A Correct.
10 (Deposition Exhibit Number 154
11 was marked for identification.)
12 Q (MR. TONER) You have in front of you Exhibit 154
13 which is an email dated April 22.
14 Did you receive email from Combat Data?
15 A Yes, it seems that I did.
16 Q And did it include the attached invoice for \$3,000?
17 A Yes, it appears to.
18 Q And does this help refresh your recollection that
19 the election data covered elections in Michigan for
20 the time period 2002 to 2010?
21 A Yes.
22 Q So using this database, were you able, then, to
23 track and think about whether voters voted for a
24 Republican or a Democrat statewide candidate in
25 each of the census blocks that you were considering

Page 182

1 A Correct. The census data was released at the end
2 of March of 2011, and this is -- email is dated the
3 22nd, which meant -- and I recall there being a
4 period of time where I didn't have the technical
5 ability to produce anything, much to the
6 consternation of people who were interested in
7 starting to see map products.
8 (Deposition Exhibit Number 155
9 was marked for identification.)
10 Q (MR. TONER) Do you recognize Exhibit 155 as an
11 email you sent to Bob LaBrant and Stu Sandler
12 around May 2nd of 2011 --
13 A Yes.
14 Q -- including the attached maps?
15 A I'm just reading what the email says.
16 Yes, that's what it indicates, and the
17 maps seem to reflect what's indicated in the email.
18 Q Not long prior to this email, did Mr. Brandell on
19 behalf of Congresswoman -- no, I'm sorry --
20 Congressman Kamp provide some sort of outline on
21 what they were hoping to see in the congressional
22 plan?
23 A It says he did. I don't recall what it was.
24 Q Well, having a chance now to look back over the
25 maps, does that refresh your recollection on what

Page 181

1 as you drew the maps?
2 A The database would have made it possible to
3 estimate such information.
4 Q On the invoice it says at the bottom "Added the two
5 jobs into the one invoice."
6 What was each job?
7 A I don't know.
8 Q To the best of your --
9 A It refers to vote history and census estimates, so
10 I -- I take it to mean that there were -- that
11 there were two databases -- or combined data.
12 Q And the combined data was then added to Maptitude
13 as, I guess, one database that you used as well as
14 map-drawing technology; is that correct?
15 A Well, there's a difference in time -- date
16 indicated here. The email is April 22. The
17 invoice is dated January 27th. The email would
18 have been after the official release of the census
19 data. The invoice would have been prior. And so
20 it's my recollection that the email is related to
21 matching the estimated -- what had previously been
22 estimated data to actual data within the Maptitude
23 software.
24 Q Got it. So with the official census data, they
25 were able to map better the election data?

Page 183

1 the Kamp team was trying to accomplish?
2 A No, it doesn't refresh it specifically. I don't --
3 looking -- other than looking at the 4th District
4 that would have included Dave Kamp.
5 Q Did you use Maptitude as tweaked by the good people
6 at Combat Data to prepare data sheets for this
7 proposal and include them in what you sent to
8 LaBrant and Sandler at that time?
9 A Including the data that -- the data table that's
10 attached here, yes.
11 Q All right.
12 A Or I guess there's two data tables, 61 and 63.
13 Q And how exactly would those data tables help you
14 achieve close adherence to the statutory criteria?
15 A The adherence would have taken place before
16 production of the tables. The tables would have
17 been generated to answer questions that people
18 viewing the map would naturally ask.
19 Q Because they were concerned about the politics of
20 what you drew, right?
21 A I assume they were concerned about a number of
22 things.
23 Q Well, wouldn't they have been concerned about
24 whether changes in the district lines would affect
25 the political strength of Democrats in the

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 184

1 districts?
2 **A I don't know what they were concerned about.**
3 Q Really?
4 **A Yeah.**
5 Q You don't know what they were concerned about when
6 you assembled elect on results over a ten-year
7 period showing Republican concentration in each of
8 the districts that you drew?
9 **A Where are you referring to?**
10 Q The two data sheets you included.
11 **A The two data sheets just showed the election**
12 **results from past elections.**
13 Q Right. They tracked the Republican votes in each
14 of the distr cts you were proposing, and w th
15 simple math, you'd know what the Democrat share.
16 Only small adjustments for others who aren't
17 Republicans and Democrats.
18 **A And, as I said, those were the natural questions**
19 **that I knew people would ask and would produce**
20 **charts or maybe they specifically asked for this**
21 **data, I don't recall.**
22 **(Deposition Exhibit Number 156**
23 **was marked for identification.)**
24 Q (MR. TONER) Is Exhibit 156 some emails exchanged
25 between you and Terry Marquardt on May 9, 2011,

Page 186

1 Q And did you have a reaction to Mr. Marquardt's
2 comment that "The new Pappageorge distr ct would be
3 a little vulnerable in this proposed plan"?
4 **A No. He asked me do I have McCain numbers there,**
5 **and I seem to have provided them.**
6 Q Did you employ them in an effort to help Marquardt
7 comply w th the statute?
8 **A Yes.**
9 Q How so?
10 **A Where I interacted with the Senate and House map**
11 **drawers was helping them to apply the Apol**
12 **criteria. It would have been to minimize county**
13 **breaks and minimize municipal splits.**
14 Q And knowing who voted for John McCain in 2008
15 helped apply the Apol criteria exactly how, sir?
16 **A That would have been after the fact, and that was a**
17 **question he was, obviously, being asked.**
18 Q And he was being asked that question and you were
19 being asked similar quest ons because members of
20 the Legislature wanted to know the political
21 effects of proposed districts, d dn't they?
22 **A His email, his initial email on May 9th at 9:19**
23 **says, "You mentioned and showed me a glimpse of a**
24 **plan that coupled Oakland and Genesee Counties**
25 **without any municipal breaks."**

Page 185

1 along with the attached proposed maps and election
2 data?
3 **A Yes.**
4 Q In the second from the bottom email you write "This
5 plan was done from the six-break outline you gave
6 me two weeks ago at Dickinson Wright."
7 Do you recall that meeting at Dickinson
8 Wright?
9 **A I don't recall that specific meeting, no.**
10 Q Do you recall any of the attendees?
11 **A I've listed in response to a similar question**
12 **previous times the map drawers and attorneys if**
13 **you'd like me to repeat the list.**
14 Q Well, I'm --
15 **A I don't recall the specific meeting so I can't**
16 **specifically cite who was at that meeting that I'm**
17 **referring to two weeks prior to May 9th.**
18 Q Did you keep a copy of the plan you received on May
19 9?
20 Bad quest on. Strike it please.
21 D d you keep a copy of the six-break
22 outline that you received a few weeks prior to this
23 email?
24 **A I don't know if I kept a copy or not. I don't have**
25 **one now if that's what you're asking.**

Page 187

1 **My recollection is at that point plans**
2 **that he had been considering or were being viewed**
3 **in the Senate had municipal breaks, and I was asked**
4 **and worked with Terry to eliminate those breaks as**
5 **the enacted maps did. There are no Senate breaks**
6 **in Oakland or Genesee County.**
7 Q When you read Mr. Marquardt's comments that the
8 Pappageorge district will be a l ttle vulnerable,
9 did you believe it was vulnerable according to the
10 Apol criteria or according to past votes in the
11 state of Michigan in that area?
12 **A I don't recall any specific thing that I thought**
13 **and -- you know, when I received this.**
14 **(Deposition Exhibit Number 157**
15 **was marked for identification.)**
16 Q (MR. TONER) The two pages of Exhibit 157 appear to
17 me to have the same table and a copy of your --
18 used in two different emails by you. Were these
19 tables that you produced using Maptitude?
20 **A I don't know. They do not look like Maptitude**
21 **tables.**
22 Q Where do you think you obtained them?
23 **A I don't know.**
24 Q No idea?
25 **A No. No.**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 188</p> <p>1 Q What other sources of political data do you recall</p> <p>2 consulting in 2011?</p> <p>3 A It's -- I was provided political data perhaps in</p> <p>4 summary tables like this by map drawers in the</p> <p>5 Senate or House.</p> <p>6 Q But this refers to congressional districts?</p> <p>7 A Correct.</p> <p>8 Q So I don't understand why map drawers for the</p> <p>9 Michigan Senate or the Michigan House would provide</p> <p>10 you such a table.</p> <p>11 A Well, the -- they -- we were working in close</p> <p>12 concert with each other with regards to producing</p> <p>13 House and Senate and congressional maps, and so</p> <p>14 they would have -- they were producing</p> <p>15 congressional maps that I would share directly or</p> <p>16 that they would share with me.</p> <p>17 Q I see. Were these -- someone other than Marquardt</p> <p>18 was providing you such things?</p> <p>19 A I don't recall specifically who provided me</p> <p>20 the . . .</p> <p>21 Q Okay. Who is Marty that's referred to here?</p> <p>22 A Marty Knollenberg.</p> <p>23 Q Okay. And who is he?</p> <p>24 A He is an incumbent state senator.</p> <p>25 Q Was he concerned about keeping potential political</p>	<p style="text-align: right;">Page 190</p> <p>1 each proposed district?</p> <p>2 A Very few people spoke Apol criteria, they all</p> <p>3 understood political data.</p> <p>4 (Deposition Exhibit Number 158</p> <p>5 was marked for identification.)</p> <p>6 Q (MR. TONER) Let's work our way through a string of</p> <p>7 emails here marked as Exhibit 158, and I think the</p> <p>8 easiest way is to start at the bottom of the second</p> <p>9 page.</p> <p>10 A Bottom of the second page. All right.</p> <p>11 Q Yeah. This appears to me to be an email you</p> <p>12 prepared on May 11 and sent to Jamie Roe and Jim</p> <p>13 Brandell titled "Latest Congressional Plan," and</p> <p>14 you write that "Here is the latest plan vers on</p> <p>15 that LaBrant and I shared with the House Senate."</p> <p>16 When you said that, did you mean that the</p> <p>17 plan was shared with Republican members of the</p> <p>18 House and Senate?</p> <p>19 A It would have been shared with the map drawers</p> <p>20 working for the majority leader and speaker of the</p> <p>21 House.</p> <p>22 Q Who were Republicans correct?</p> <p>23 A Yes.</p> <p>24 Q All right. Who from the governor's office was</p> <p>25 paying close attention to all of this?</p>
<p style="text-align: right;">Page 189</p> <p>1 rivals out of his district?</p> <p>2 A At the time, Marty was an elected state</p> <p>3 representative, and there was -- there was concern</p> <p>4 about satisfying Marty in order to get his vote to</p> <p>5 pass the plan, and that often was in conflict with</p> <p>6 what Thad McCotter and Jack Daly were pushing for.</p> <p>7 Q And is this a reference to McCotter's desire to</p> <p>8 keep rivals out of his district?</p> <p>9 A Does this refer -- I don't know -- I don't see that</p> <p>10 this refers to -- I've mentioned that before. I</p> <p>11 don't see that this email directly references that.</p> <p>12 Q The reference to "V1 Pontiac Detroit plan," what</p> <p>13 does that refer to exactly?</p> <p>14 A Plans were given names when they were saved.</p> <p>15 Q Did you come up with that name?</p> <p>16 A I don't know.</p> <p>17 Q Well, is it fair to assume that the V2 plan is one</p> <p>18 that you came up with?</p> <p>19 A Yes.</p> <p>20 Q And you reached a conclusion that there would be</p> <p>21 virtually zero impact on the political data from</p> <p>22 your new V2 configuration, right?</p> <p>23 A Yes, by May 11th I had learned to anticipate the</p> <p>24 next question.</p> <p>25 Q There were a lot of questions about the politics of</p>	<p style="text-align: right;">Page 191</p> <p>1 A I can't answer that. I don't know who in the</p> <p>2 governor's office was concerned.</p> <p>3 Q Because at the top of the last page you mention</p> <p>4 that "the gov's folks." I'm wondering if you can</p> <p>5 give me some names.</p> <p>6 A My recollection is, is that when I shared</p> <p>7 information with the House, Senate, and governor's</p> <p>8 office, that I would typically include legal</p> <p>9 counsel or somebody involved in legal counsel's</p> <p>10 office in redistricting. It was often Dave Murley</p> <p>11 who was deputy legal counsel at the time, I</p> <p>12 believe, or similar title.</p> <p>13 Q That last page walks through proposed alterations</p> <p>14 to the Detroit Metro area. Can you tell me who</p> <p>15 requested adding Pontiac into the Conyers seat?</p> <p>16 A I don't recall.</p> <p>17 Q Can you tell me who requested the changes discussed</p> <p>18 in point 3 there, the southeast Oakland, southern</p> <p>19 Macomb seat?</p> <p>20 A No.</p> <p>21 Q And the last one, it says "The McCotter seat now</p> <p>22 wraps around Pontiac and picks up the Bloomfields,</p> <p>23 Birmingham, and Southfield Township."</p> <p>24 Were those requests made by Congressman</p> <p>25 McCotter's office?</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 192

1 **A I don't recall.**
2 Q Did you think the email was accurate when you sent
3 it?
4 **A Yes, but I don't know -- I don't know the context.**
5 **This seems to be answering questions that were**
6 **either asked or anticipated.**
7 Q On page 2 let's go to the email that begins "On May
8 11, 2011, at 4:18 p.m."
9 **A Okay. Got it.**
10 Q Is that the text of an email you received from Jim
11 Brandell at that time beginning "Hey, Jeff"?
12 **A Yeah, I'm looking at it. It appears to be, yes.**
13 Q He writes "Your map has Peters and Thad in the same
14 district which can't happen."
15 What did that mean to you?
16 **A I took that to understand it would disrupt the**
17 **likelihood of passage of the plan in the**
18 **Legislature.**
19 Q Because Congressman McCotter would have a rival in
20 his district?
21 **A Because legislators voting on the plan would --**
22 **would not support a plan that had such a pairing.**
23 Q And was it your understanding that for Congressman
24 McCotter that was even more important than how many
25 likely Republican voters were in his district?

Page 194

1 **A Uh-huh.**
2 Q Okay. When you write "Amash's seat is still rock
3 solid," did you mean rock solid in terms of likely
4 voters supporting Republican candidates?
5 **A The context I think was based on what we understood**
6 **to be the wishes of Amash.**
7 Q What did you mean by your sentence "Both help on
8 the PR side adhering to traditional standards of
9 keeping counties intact"?
10 **A That was my role with analysis of plans was**
11 **adhering, to the best of my ability, to the Apol**
12 **standards, keeping counties intact and municipal**
13 **splits as -- minimized, and shifting the fewest**
14 **number of cities and townships when having to break**
15 **a county line.**
16 Q Is it fair to say that the public would be more
17 accepting of that than to find out that deals were
18 being cut with elected representatives to pack
19 Democrats in certain districts and assure
20 Republicans an ability to return to Congress?
21 **A I can't -- I can't answer that question. I have no**
22 **idea what people think.**
23 Q Well, your firm, Sterling Corporation, is quite
24 experienced with public relations, isn't it?
25 **A Yes.**

Page 193

1 **A By May 11th I don't think I was trying to analyze**
2 **Thad's behavior any longer, I was just trying to**
3 **endure it.**
4 Q Jump down in the email to the paragraph that begins
5 "Shiawassee County." Do you see that?
6 **A Yes.**
7 Q "We want to ensure Kamp's small portion includes
8 Laingsburg and Scenic Lake and then Kildee can have
9 the rest of the county."
10 Do you see that?
11 **A I do.**
12 Q Would such changes help the plan stay in compliance
13 with the Apol principles?
14 **A No, I don't believe that they would, and that's why**
15 **those changes weren't made.**
16 Q If you look at the bottom of the first page, Bates
17 Number 66, Jamie Roe writes "I assume that the
18 target on the map in Troy is the home of a certain
19 state rep."
20 Who do you think he was referring to?
21 **A Marty Knollenberg was the only representative from**
22 **Troy at the time.**
23 Q Further up the page, is that your full email there
24 on May 11 around 6:51 p.m. that begins "Just
25 curious"?

Page 195

1 Q You guys hold yourself out as leading consultants
2 in that regard, right?
3 **A Yes.**
4 Q And those who own your company -- your company's a
5 division of an organization that's steeped in
6 public relations, right?
7 **A Yes.**
8 Q Okay. In the top email from Jamie Roe at the
9 beginning of this document when he said "I would
10 say the priority would be to beef up Walberg," what
11 did that mean to you?
12 **A Hmm. I -- I'm just reading it. This appears, just**
13 **from the way it starts, as an incomplete email. I**
14 **don't know if this is the full context. It begins**
15 **without a -- what appears to be a full sentence.**
16 Q Or at least the first letter is not capitalized?
17 **A Yeah, I don't -- yeah, I think Jamie's offering me**
18 **an opinion is the way I read that.**
19 Q Did you understand his opinion would add more
20 likely Republican voters or remove more likely
21 Democratic voters, or both?
22 **A I don't think either. I don't think changes made**
23 **to the -- what the seat that Justin Amash came to**
24 **represent was -- were ultimately impacted. Same**
25 **with Walberg. And that's why neither are**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 196</p> <p>1 identified as a political outlier by Chen, 2 Dr. Chen. 3 Q When you read the sentence "Amash's seat on this 4 map is still the second best seat in the state," 5 second best in terms of what? 6 A Well, Jamie was putting it through a prism of what 7 he viewed as Republican numbers. 8 Q D d you disagree? 9 A I don't know. 10 Q Do you disagree s tting here today based on your 11 many years of experience that Amash's seat was the 12 second best in the state of Michigan? 13 A I don't know. 14 (Deposition Exhibit Number 159 15 was marked for identification.) 16 Q (MR. TONER) In Exhib t 159 we see one of those 17 table formats that we discussed a minute ago. 18 A Uh-huh. 19 Q Do you have any recollect on of where the pol t cal 20 data came from on the bottom of page 1, top of page 21 2? 22 A No different than my answer before. I don't -- 23 this does not look like the data generated from 24 Maptitude. 25 Q In your email you have a subject line that says</p>	<p style="text-align: right;">Page 198</p> <p>1 A I don't recall. 2 Q And as you look through the attachments, do any of 3 the attachments help ring a bell as to what might 4 have been involved in that proposal? 5 A No. 6 Q The document on pages 1050 and 1052 and 1053 have 7 what appear to be statewide elect on results from 8 2010, 2008, and 2006 for the 14 proposed 9 congressional districts? 10 A Uh-huh. 11 Q Is that election data that you assembled from your 12 Maptude database? 13 A No, not that I would have assembled, it would have 14 been automatically calculated. 15 Q Did you and Mr. LaBrant have any follow-up 16 discussions after this email about the pros and 17 cons of each plan in terms of Apol criteria or 18 these predicted elect on results? 19 A Not that I recall. 20 (Deposition Exhibit Number 160 21 was marked for identification.) 22 Q (MR. TONER) Sticking with the very, very merry 23 month of May 2011, we have a document marked as 24 Exhib t 160. Are these emails that you exchanged 25 w th Bob LaBrant and that he received from Jack</p>
<p style="text-align: right;">Page 197</p> <p>1 "Plan that removes Westland"? 2 A Uh-huh. 3 Q Tell me what that was about. 4 A Other than the -- what the title indicates, I don't 5 recall the specifics or the -- or the plan. 6 Q Who wanted to remove Westland? 7 A I don't know for certain. Given the time frame and 8 frequency of unsolicited advice, it was likely Jack 9 Daly and/or Thad McCotter had offered a suggestion 10 that was, you know, placated for the purposes of 11 looking at what it would do. 12 Q Was Westland removed from McCotter's distr ct? 13 A I would have to see a map. This map has -- in the 14 enacted plan, off the top of my head, I don't know. 15 MR. BREWER: Can we go off the record? 16 (Discussion held off the record.) 17 THE WITNESS: Yes, the enacted 18 District 11 does not contain Westland. 19 Q (MR. TONER) Thank you. 20 One of the attachments to this email, 21 Exhib t 159, is titled "Roe hybrid plan." Can you 22 tell me what that referred to? 23 A I -- no, I don't recall other than in this heading 24 here. Is it anywhere else? 25 Q No, it's -- I see reference to "RoeHybridPlan.PDF."</p>	<p style="text-align: right;">Page 199</p> <p>1 Daly -- 2 A Yes. 3 Q -- and forwarded to you? 4 A Yes. 5 Q I guess at least some of it you might have received 6 from Daly directly. 7 Basically, was Daly proposing getting 8 together with you and LaBrant to talk about deas 9 for a proposed plan? 10 A It appears that he was. 11 Q What was your reaction to his proposal in the 12 m dle of page 1 about swapping 17,000 people in 13 Wayne for 17,000 people in the Northwestern seven 14 precincts of West Bloomfield? 15 A I have no recollection of this specific proposal or 16 any reaction that I had. 17 Q Had that been carried out, would that have put more 18 Democrats into a Democrat c congressional district 19 and more Republicans into a GOP district, in your 20 judgment? 21 A I don't think it would have had any effect. 22 Q Do you think it would have had any effect on the 23 racial composition of the two districts? 24 A Which two districts? 25 Q Good quest on. I don't know the answer, do you?</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 200</p> <p>1 Do you have any educated guess of what parts of</p> <p>2 Wayne we would have been talking about in terms of</p> <p>3 congress onal districts?</p> <p>4 A No. I mean, there's a number of congressional</p> <p>5 districts in Wayne. I don't know which one it's</p> <p>6 referring to. I don't know which 17,000 people.</p> <p>7 Q Okay. Let's start w th and finish this document</p> <p>8 with this email from Bob LaBrant on May 16 at 8:38</p> <p>9 a.m.</p> <p>10 Was LaBrant in Hawaii at the time?</p> <p>11 A He indicated somewhere -- yeah, at this top email,</p> <p>12 "I got a call from Jack here in Hawaii." So I</p> <p>13 assume -- and I remember Bob being in Hawaii.</p> <p>14 Q And when he says "Thad's proposed district," he's</p> <p>15 talking about Congressman McCotter's district,</p> <p>16 correct?</p> <p>17 A He's referring to Thad McCotter, yes.</p> <p>18 Q When he says "Dale at the RNC has drawn a 10-4</p> <p>19 map," did you understand that to mean that t was a</p> <p>20 proposal for congressional distr cts likely to</p> <p>21 produce 10 Republicans and 4 Democrat</p> <p>22 representatives to the U.S. House?</p> <p>23 A Yes.</p> <p>24 Q Later in that same paragraph he wr tes "I think</p> <p>25 your map protects all nine incumbents and t looks</p>	<p style="text-align: right;">Page 202</p> <p>1 Q (MR. TONER) You were doing a little more than that,</p> <p>2 though, weren't you? You were also supplying</p> <p>3 political data from the 2008 presidential elect on</p> <p>4 and formatting things to help people answer</p> <p>5 quest ons from incumbent pol t cians, right?</p> <p>6 A I was helping them get the support that they would</p> <p>7 need to pass legislative plans.</p> <p>8 Q Okay. Do you recognize Exhibit 161 as an email</p> <p>9 string shared between you and Bob LaBrant around</p> <p>10 May 17 of 2011?</p> <p>11 A Yes.</p> <p>12 Q Who is Mark Murray?</p> <p>13 A The CEO of Meijer.</p> <p>14 Q Is he a major Republ can contributor?</p> <p>15 A I believe he's a donor to several candidates.</p> <p>16 Q Republicans?</p> <p>17 A I can't say exclusively. I have no idea.</p> <p>18 Q Who's Phil Guyeskey?</p> <p>19 A Phil worked at the Michigan Chamber.</p> <p>20 Q Did Mark Murray ever work in pol t cs?</p> <p>21 A Yes, he worked in state government.</p> <p>22 Q For whom?</p> <p>23 A He was the state treasurer during the -- some</p> <p>24 period during the 1990s I believe.</p> <p>25 Q As a Republ can?</p>
<p style="text-align: right;">Page 201</p> <p>1 good."</p> <p>2 Did you agree with that at the time?</p> <p>3 A That was Bob's analysis. I produced the maps that</p> <p>4 broke the fewest number of county lines that I</p> <p>5 could configure and split the fewest number of</p> <p>6 municipalities.</p> <p>7 Q Did you agree with his analysis at the time that it</p> <p>8 would protect all nine incumbents, and then t</p> <p>9 would look good in terms of public relations and</p> <p>10 legality?</p> <p>11 A Based on the interaction I had with either members</p> <p>12 or their staff, I thought that it would satisfy,</p> <p>13 largely satisfy, the nine Republican members.</p> <p>14 Q And protect them in future elect ons?</p> <p>15 A Well, I've said before that future elections are</p> <p>16 very difficult to predict. Candidates and</p> <p>17 campaigns matter.</p> <p>18 Q Did you think about wr ting Mr. LaBrant and telling</p> <p>19 him that the future elect ons are just hard to</p> <p>20 pred ct, Bob?</p> <p>21 A I don't know. It wasn't my job to do that. I was,</p> <p>22 you know, drawing the districts as asked and</p> <p>23 applying the Apol criteria.</p> <p>24 (Deposition Exhibit Number 161</p> <p>25 was marked for identification.)</p>	<p style="text-align: right;">Page 203</p> <p>1 It's an elected pos t on, isn't it?</p> <p>2 A No, it's not.</p> <p>3 Q Oh, I'm sorry. Who appointed him?</p> <p>4 A Governor John Engler is my recollection.</p> <p>5 Q In Guyeskey's email he writes "Before Mark gets in</p> <p>6 the m dle of this, he wants to know what the real</p> <p>7 numbers are." What d d you take that to mean, "the</p> <p>8 real numbers"?</p> <p>9 A I honestly don't know, and that's why I said "We</p> <p>10 need to clarify Phil's email."</p> <p>11 Q You wrote "We need to clarify Phil's email," as you</p> <p>12 just said, and then "Big difference between keeping</p> <p>13 GR intact --" is that Grand Rapids?</p> <p>14 A Yes.</p> <p>15 Q "-- and keeping all of Kent intact"?</p> <p>16 A Correct.</p> <p>17 Q What d d you mean by that?</p> <p>18 A In terms of the ramifications it would have on</p> <p>19 other districts.</p> <p>20 Q By splitting those municipalities?</p> <p>21 A The enacted plan -- well, I'm not even sure that</p> <p>22 this is regards to congressional. I don't recall</p> <p>23 specifics of this, and I don't know if he's talking</p> <p>24 about congressional plans or state Senate plans.</p> <p>25 They mention McMaster in here, so maybe</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 204</p> <p>1 it's State House plans. I don't recall.</p> <p>2 Q When you wrote "The latter -- the later will upend</p> <p>3 all we've done" -- I guess that refers to keeping</p> <p>4 Kent intact -- what did you mean?</p> <p>5 A Kent County is -- the Kent County lines are broken</p> <p>6 in the congressional, Senate, and House plan, so it</p> <p>7 could refer to any or all of the plans.</p> <p>8 Q And when you say "upends all we've done," were you</p> <p>9 referring to impacts on all three plans do you</p> <p>10 think?</p> <p>11 A It could be one or two or three. And what I would</p> <p>12 be referring to is the -- those -- Kent was split</p> <p>13 in those three plans to minimize breaks of</p> <p>14 counties. And so upending it would have meant</p> <p>15 adding breaks that could have been otherwise</p> <p>16 avoided.</p> <p>17 Q What's the baseline political composition of</p> <p>18 Grand Rapids?</p> <p>19 A It's a -- I don't know. I mean, it depends on the</p> <p>20 election and the candidate and the year.</p> <p>21 There's -- I don't believe there's any absolute way</p> <p>22 to apply election data in a way that is --</p> <p>23 characterizes an area.</p> <p>24 Q In 2011?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 206</p> <p>1 through the first half of May 2011, so let's move</p> <p>2 on. I have asked the court reporter to mark</p> <p>3 Exhibit 162 which appears to be a series of emails</p> <p>4 exchanged with you, Jamie Roe, Mr. LaBrant on May</p> <p>5 16. Do you recall these emails?</p> <p>6 A Yeah, I recall having reviewed them recently.</p> <p>7 Q Okay. If we start at the bottom, we'll have the</p> <p>8 one that's furthest back in time. I think it's</p> <p>9 stamped 2:45 p.m., and there's a reference at the</p> <p>10 top of the second page of the exhibit about an</p> <p>11 adjustment suggested by Jack Daly; do you see that?</p> <p>12 A I'm reading through it now.</p> <p>13 Q The sentence I'm focused on says "It splits</p> <p>14 West Bloomfield largely as Jack Daly suggested but</p> <p>15 then adds Orchard Lake County, and a little bit more</p> <p>16 of W-Bloom needed to balance the Conyers seat."</p> <p>17 My question is what did you understand</p> <p>18 Jack Daly's goal to be with those adjustments?</p> <p>19 A I don't know. I don't have specific recollection.</p> <p>20 Q Do you recall the political composition of</p> <p>21 West Bloomfield at the time?</p> <p>22 A No other than it was represented by a Republican in</p> <p>23 the State Senate and I believe State House.</p> <p>24 Q Okay. Jamie Roe then replies to that a few minutes</p> <p>25 later if you'll look just above it on the first</p>
<p style="text-align: right;">Page 205</p> <p>1 Q What would you have said?</p> <p>2 A I would have said the same thing.</p> <p>3 Q There's no way to tell what the political</p> <p>4 ramifications are of splitting or keeping</p> <p>5 Grand Rapids intact?</p> <p>6 A No, the only thing you could answer is how</p> <p>7 Grand Rapids voted in previous elections.</p> <p>8 Q Right. And we've seen a lot of data of previous</p> <p>9 elections. Did you ever do any consideration of</p> <p>10 that?</p> <p>11 A The software would have calculated if Grand Rapids,</p> <p>12 for example, was intact. The numbers are very</p> <p>13 clear as to what -- in any given election, what the</p> <p>14 results were. If it was split, the data would have</p> <p>15 calculated that as well.</p> <p>16 MR. TONER: If it's all right with you,</p> <p>17 why don't we break for lunch. It's just about</p> <p>18 1:00. Does that work?</p> <p>19 MR. KNAPP: Sure.</p> <p>20 THE WITNESS: Okay.</p> <p>21 (Lunch break taken from</p> <p>22 12:52 p.m. to 1:39 p.m.)</p> <p>23 (Deposition Exhibit Number 162</p> <p>24 was marked for identification.)</p> <p>25 Q (MR. TONER) Before our lunch break, we had made it</p>	<p style="text-align: right;">Page 207</p> <p>1 page of Exhibit 162 --</p> <p>2 A Uh-huh.</p> <p>3 Q -- and he writes "Certainly shores up Thad's</p> <p>4 district well."</p> <p>5 Did you understand that to be a reference</p> <p>6 to the voting history in that area?</p> <p>7 A I'm reading the entire email.</p> <p>8 The emails don't give the specific</p> <p>9 context.</p> <p>10 Q He then says he anticipates a problem coming from</p> <p>11 Dave Kamp. What was that, as best you can recall?</p> <p>12 A Well, just -- I don't recall anything other than</p> <p>13 what his email says here, giving up Osceola where</p> <p>14 he has strong supporters, not getting Wexford that</p> <p>15 I believe he was hoping for. That's -- and then</p> <p>16 taking all of Shiawassee, which he wanted out, and</p> <p>17 picking up Ionia that he was not keen on."</p> <p>18 That's -- I don't recall that.</p> <p>19 Q What's the political composition of Ionia? I'm</p> <p>20 trying to understand why he wouldn't have been keen</p> <p>21 on it.</p> <p>22 A Well, I think Ionia would be considered a</p> <p>23 Republican county. It has county-wide elected</p> <p>24 Republicans and a county commission that's majority</p> <p>25 Republican.</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 208

1 Q Do you know of any reason why he wouldn't have been
2 keen on having that in his district?
3 **A No. All the districts -- or all the counties**
4 **mentioned here elect Republicans largely at the**
5 **local level, at the county level, so he had some**
6 **preference clearly other than the partisan makeup**
7 **for not wanting them in his district.**
8 Q Uh-huh. You respond to that a few minutes later
9 and you write "The northern and central counties
10 can be played with to accommodate Kamp."
11 What did you mean by that?
12 **A Okay, what I recall that meaning would be given the**
13 **small populations of northern -- or central**
14 **Michigan counties, that they could -- there could**
15 **be alternate configurations that wouldn't have any**
16 **impact on the Apol criteria.**
17 Q Not long after that Jamie Roe wrote you back and
18 said that the response from Rogers' office was not
19 good, "Thad gets beefed up at our expense once
20 again."
21 What did you understand that to mean?
22 **A I don't know. Without seeing a map and without**
23 **having greater context, I don't know what he's**
24 **referring to.**
25 Q Is it fair to assume that Rogers' office thought

Page 210

1 port on in the email stamped 4:09 p.m., correct?
2 **A Uh-huh.**
3 Q And you offer to move boundaries around in
4 Rochester Hills, correct?
5 **A That's what -- yes, that's what the email says.**
6 Q Did you do calculations of what those adjustments
7 would do in terms of the McCain numbers?
8 **A I don't recall.**
9 Q Do you think it's likely?
10 **A The software would have done calculations any time**
11 **a map of any kind was drawn.**
12 Q Given that Jamie was honed in on Rogers and Thad
13 wrangling over McCain numbers for the proposed
14 districts, don't you think you paid attention to
15 that?
16 **A I don't recall.**
17 Q Okay. The last email appearing at the top of the
18 first page in the evening of May 16 mentions that
19 Jim Brandell and Jamie Roe will be in town on
20 Thursday morning for the redistricting meeting.
21 By May 16, what sort of things were being
22 discussed in these meetings?
23 **A I'm not sure, and I don't know that -- I don't**
24 **recall ever being at a meeting with Jamie or Jim.**
25 Q What did you discuss with Jamie after that meeting

Page 209

1 that McCotter was getting more Republican
2 supporters on the proposal?
3 **A I don't believe so because that -- that wasn't the**
4 **case. I think Rogers' concern was representing**
5 **more of the territory that he had been representing**
6 **in Congress.**
7 Q When Jamie Roe wrote "They lose good stuff in
8 Rochester Hills," what did you understand that is
9 to mean?
10 **A Again, I don't have the context of this and there's**
11 **no plan attached to this. I don't know.**
12 Q What did you understand him to mean by "the bad
13 part of Clinton County"?
14 **A I don't -- I don't know what that would mean.**
15 Q Or "the bad part of Bath and Dewitt"? Do you have
16 any opinion on that at all?
17 **A No.**
18 Q Well, the next sentence is pretty clear, isn't it?
19 "Rogers loses full 1 percent on the McCain number
20 and Thad picks up 1.5 percent"?
21 **A Uh-huh.**
22 Q That's an express reference to voting results,
23 correct?
24 **A Yes, Jamie made a reference to that.**
25 Q In response you offer to change the Clinton County

Page 211

1 in May 2011?
2 **A I don't -- I don't know. I don't know if I**
3 **discussed anything with him after that. I don't**
4 **know that I was at a meeting.**
5 Q In that second half of May, how often did you meet
6 with Jamie Roe?
7 **A I don't recall meeting with him other than to talk**
8 **via email, or perhaps on the phone.**
9 **(Deposition Exhibit Number 163**
10 **was marked for identification.)**
11 Q (MR. TONER) The three emails in Exhibit 163 are all
12 from May 17, 2011, correct?
13 **A There's two -- wait -- three emails, four emails.**
14 **Yes, they all have that date.**
15 Q Is it fair to say that on that date you had
16 continued to do some work in configuring the
17 congressional districts to try and satisfy the
18 representatives of these two congressmen?
19 **A I see that here's a revised version of yesterday's**
20 **map, so it looks like I continued along.**
21 Q At the bottom of that first page you say that you
22 have included a chart showing election data of the
23 plan compared to the 2001 and current districts,
24 and you write "All GOP seats improve except
25 Congressional District 2 and 3" --

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 212

1 **A Uh-huh.**
2 Q -- right?
3 **A Uh-huh.**
4 Q What was it about this draft that helped you
5 achieve close adherence to the Michigan statute?
6 **A The fact that it minimized county splits and**
7 **municipal splits to the extent possible. Any**
8 **changes that would have been made between versions**
9 **would have had no effect on that.**
10 Q Right. And neither of those points has anything to
11 do with including McCain and Bush election data for
12 your draft, does it?
13 **A No, but as I've said before, that's likely in**
14 **anticipation -- either directly answering and**
15 **providing material information or anticipating that**
16 **it would have been asked for if I didn't provide**
17 **it.**
18 Q I mean, these election result questions are coming
19 up day after day as you interact with the
20 congressional staff, aren't they?
21 **A Yes, and, as I mentioned before, that very few**
22 **people spoke Apol criteria as a language, but they**
23 **did understand the translation into such things as**
24 **population, census demographics, and political**
25 **data.**

Page 213

1 Q Help me understand the pitch you made there in your
2 2:24 p.m. email to Jamie. You write "Not many ways
3 to do it with both Lansing and East Lansing in it,
4 but it doesn't get worse, and it's a far sight
5 better than the one he first won back in 2000."
6 What did you mean by that?
7 **A That was -- appears to be an answer to a question**
8 **about certain -- some political data, I don't know**
9 **what, but it could be census demographic data as**
10 **well.**
11 Q Really?
12 **A It could be.**
13 Q So when Jamie wrote "So the Rogers district does
14 not improve at all," and you wrote back about the
15 district not getting worse and a far sight better
16 than the one he actually won in 2000, you think
17 that was about population data?
18 **A I didn't say population data, I said demographic**
19 **data. I don't know, it doesn't indicate.**
20 Q Okay. What kind of demographic data? Age? Race?
21 Sex?
22 **A The Census Bureau released data PL 94-171 all**
23 **across the country and it included, I don't know,**
24 **probably a couple hundred categories of demographic**
25 **data from housing ownership to income to education**

Page 214

1 **to race.**
2 Q And in your judgment, this draft you had worked up
3 would improve the incumbents' chances, right?
4 "It's a far sight better than the one he won in
5 2000" based on what you knew about those voters?
6 **A Again, I don't have the context from, you know, an**
7 **email seven years ago. I don't know exactly what I**
8 **was referring to.**
9 **(Deposition Exhibit Number 164**
10 **was marked for identification.)**
11 Q (MR. TONER) Please take a look at the emails on the
12 first page of Exhibit 164 and the attached invoice,
13 and my question is whether you recall sending out a
14 bill at that time to a wireless communications
15 trade organization.
16 **A I do not.**
17 Q How was this trade organization involved in
18 redistricting in May of 2011?
19 **A I don't know other than what's listed here on the**
20 **invoice.**
21 Q Have you been -- were you involved in fundraising
22 directed at that organization?
23 **A I was not.**
24 Q Do you know if Steve Linder was?
25 **A Steve Linder was involved in fundraising.**

Page 215

1 Q Right, but did you recall discussing with him or
2 seeing documents that suggested he may have been
3 trying to get money from the wireless
4 communications folks?
5 **A I don't recall other than what you've just handed**
6 **me here.**
7 Q MRRI was -- its operations were devoted to
8 redistricting, correct?
9 **A I don't have -- I don't know of their articles of**
10 **incorporation. I don't -- I don't have knowledge**
11 **of that.**
12 Q No, but it's right in the title of the
13 organization. Michigan Redistricting --
14 **A Yes.**
15 Q -- Resource Institute?
16 **A Yes, it was certainly related to redistricting.**
17 Q And certainly if the CTIA, the wireless
18 association, paid the \$5,000 bill you sent out, it
19 would have helped the operations of the MRRI
20 organization, helped fund them, right?
21 **A Yes, that's what the email -- or the invoice**
22 **indicates.**
23 Q What other trade groups paid MRRI in 2011?
24 MR. ELLSWORTH: I'm going to object
25 unless you lay a foundation and establish that he

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 216

1 knows what the donations were.
2 Q (MR. TONER) Do you recall sending out other
3 invoices to other trade organizations?
4 **A No, I don't recall sending out any invoices.**
5 Q Do you have any reason to believe you didn't send
6 this one?
7 **A No.**
8 Q Who is J. Carpenter, and if you can tell me the
9 full name there, at CTIA?
10 **A I don't know. I don't know that person.**
11 Q Jot Carpenter I guess is what the invoice says.
12 **A I see that, and I still don't know who that person**
13 **is.**
14 Q Okay. Who is Mattie Timmer?
15 **A She's my wife.**
16 Q What does she do?
17 **A Currently or what did she do in 2011?**
18 Q Let's go with 2011.
19 **A She was working at the Sterling Corporation.**
20 Q Doing what?
21 **A Primarily fundraising related to candidates.**
22 Q Do you recall any candidates in particular?
23 **A No, no. It would have been legislative candidates,**
24 **perhaps federal candidates at the time.**
25

Page 218

1 had been doing, did he often say things that
2 weren't true?
3 **A Not that I recall.**
4 Q But you believe this was a misstatement, "working
5 to make a solid 9-5 delegation on that would last
6 beyond 2012"?
7 **A I can only answer what I know and what I was doing,**
8 **and that was trying to apply the Apol criteria and**
9 **then neutral criteria in a way that would secure**
10 **votes necessary for passage.**
11 Q And did those options you prepared help ensure that
12 the Republicans would have a solid 9-5
13 congressional delegation?
14 **A I think that would be in the eye of the beholder.**
15 Q In your eye as an offered expert in this case and
16 the person who spent the most time drawing those
17 districts --
18 **A Uh-huh.**
19 Q -- did he misstate that?
20 **A That has been the result in the election since.**
21 Q Right. And he says the options were provided to
22 ensure that we have a solid 9-5 delegation. And my
23 question, sir, is whether your fine work was
24 intended to help ensure that outcome.
25 **A I didn't intend it to be that way. I had a**

Page 217

1 (Deposition Exhibit Number 165
2 was marked for identification.)
3 Q (MR. TONER) Let's go to the second page in the
4 middle of Exhibit 165, page 2, Bates Number 795?
5 **A Uh-huh.**
6 Q Bob LaBrant wrote you and others and said "Jim, we
7 will accommodate whatever Dave wants in his
8 district even if I am for longer a constituent.
9 We've spent a lot of time providing options to
10 ensure we have a solid 9-5 delegation in 2012 and
11 beyond."
12 Do you agree with that?
13 **A Do I agree it says that, yes.**
14 Q Do you agree with the fact that MRR and Sterling
15 Corporation both spent a lot of time providing
16 options to ensure a solid 9-5 delegation in 2012
17 and beyond?
18 **A No.**
19 Q Why not?
20 **A Because I don't agree with that.**
21 Q Well, what did you do to correct the man?
22 **A I don't know that I did anything to correct him.**
23 Q Did he often say things that you disagreed with?
24 **A I imagine, as anybody does.**
25 Q About the work that MRR and Sterling Corporation

Page 219

1 **specific task, and I followed it.**
2 Q And did you take any steps to correct it?
3 **A I don't know. I have an email chain here. I don't**
4 **know if there's anything beyond it.**
5 Q Please read it. I don't see any corrections in
6 here, and if I missed something, I hope you'll tell
7 me.
8 **A I don't see anything in this chain.**
9 Q On the first page of Exhibit 162 Jamie Roe wrote to
10 you --
11 **A 162?**
12 Q Yeah. Do I have the number wrong? Exhibit 165,
13 the one we were just talking about.
14 **A Okay.**
15 Q Center of the first page, please. Jamie Roe has an
16 email to you, Jim Brandell, and Bob LaBrant --
17 **A Uh-huh.**
18 Q -- and it discusses Sterling Heights. Where is
19 Sterling Heights in the state of Michigan, roughly?
20 **A In Macomb County.**
21 Q Okay. And he writes that "We would like to keep
22 the strip between Mound and VanDyke all the way to
23 16 Mile."
24 Would that be an extension to the south?
25 **A Sterling Heights has a roughly north-south split in**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 220</p> <p>1 the congressional plan.</p> <p>2 Q So that -- he goes on to say that "so that we can</p> <p>3 continue to represent General Dynamics, the</p> <p>4 Chrysler plant, and the Ford transmission plant."</p> <p>5 Are those all industrial facilities in</p> <p>6 that area?</p> <p>7 A I understand them to be.</p> <p>8 Q And folks don't vote where they work, do they?</p> <p>9 A No.</p> <p>10 Q It's based on their residence.</p> <p>11 So why was it so important to include</p> <p>12 these large corporate facilities in the district?</p> <p>13 A That would be a question for Jamie.</p> <p>14 Q Do you think that makes it easier to raise money as</p> <p>15 an incumbent congressman if you've got General</p> <p>16 Dynamics, the Chrysler Corporation, and the Ford</p> <p>17 Motor Company in your district?</p> <p>18 A Again, you'd have to ask Jamie.</p> <p>19 Q After you received that request from Jamie, you</p> <p>20 actually prepared a revised plan to accommodate the</p> <p>21 request; isn't that true?</p> <p>22 A It is.</p> <p>23 (Deposition Exhibit Number 166</p> <p>24 was marked for identification.)</p> <p>25 Q (MR. TONER) Do you recognize Exhibit 166 as a</p>	<p style="text-align: right;">Page 222</p> <p>1 are meeting Monday to settle up." What were you</p> <p>2 settling up about?</p> <p>3 A I have no recollection.</p> <p>4 Q Steve Linder writes that "State Senator is beyond</p> <p>5 pissed about her distr ct that she claims she is</p> <p>6 not in. Really bitched Randy out."</p> <p>7 Who do you think Randy was?</p> <p>8 A Randy Richardville.</p> <p>9 Q Was she correct about that, not being in the</p> <p>10 proposed distr ct?</p> <p>11 A The district she was elected in in 2010 changed</p> <p>12 significantly with the Senate map.</p> <p>13 Q And was she cut out of her old distr ct?</p> <p>14 A The Michigan Constitution or statute, I'm not sure</p> <p>15 which, requires legislators to live in their</p> <p>16 district. She couldn't be cut out of it.</p> <p>17 Q Were you worried that with eight or nine county</p> <p>18 breaks a court would throw out the plan you had</p> <p>19 devised?</p> <p>20 A The direction that we had was to adhere to the Apol</p> <p>21 criteria to the extent we could do that given our</p> <p>22 human limitations, and this was an example of</p> <p>23 satisfying the desires of Tonya Schuitmaker would</p> <p>24 have added county breaks.</p> <p>25 Q Your words on that day were "Soon instead of six</p>
<p style="text-align: right;">Page 221</p> <p>1 thread of emails between you and Jamie Roe on May</p> <p>2 24 of 2011?</p> <p>3 A Yes, it appears to be.</p> <p>4 Q And at that time Mr. Roe asked you for a block file</p> <p>5 of data in order to provide t to the NRCC,</p> <p>6 correct?</p> <p>7 A Yes, at the bottom of the page.</p> <p>8 Q And you accommodated that request and gave him the</p> <p>9 information, true?</p> <p>10 A Yes, I did, uh-huh. Yes, it looks here that I did.</p> <p>11 Q Okay. D d you prepare that using the Maptitude</p> <p>12 software?</p> <p>13 A That would have been, I think, the only way I could</p> <p>14 have produced it.</p> <p>15 Q Okay. Thanks. Did you know anything more about</p> <p>16 that request other than the fact that</p> <p>17 national-level Republ cans wanted it?</p> <p>18 A No.</p> <p>19 (Deposition Exhibit Number 167</p> <p>20 was marked for identification.)</p> <p>21 Q (MR. TONER) Who is Tonya Schuitmaker?</p> <p>22 A A state senator.</p> <p>23 Q Republ can?</p> <p>24 A Yes.</p> <p>25 Q At the bottom of Exhib t 167 you wr te "Bob and I</p>	<p style="text-align: right;">Page 223</p> <p>1 county breaks we have eight or nine and the court</p> <p>2 shit-cans the plan," right?</p> <p>3 A Uh-huh.</p> <p>4 Q That's what you wrote?</p> <p>5 A That's what it says here, yes.</p> <p>6 Q And wasn't that an express on of your view that</p> <p>7 with that number of breaks, a court might very well</p> <p>8 overrule the plan?</p> <p>9 A That appears to me to be offering legal advice to</p> <p>10 Steve Linder, for what that's worth.</p> <p>11 Q And that was, though, your strong view at the time,</p> <p>12 right? I haven't seen another email that says</p> <p>13 "shit-cans."</p> <p>14 A I don't recall the mood I was in when I wrote this.</p> <p>15 11:09 p.m. Steve might have awakened me.</p> <p>16 Q Fair enough.</p> <p>17 How many county breaks were in the final</p> <p>18 plan?</p> <p>19 A Six in the Senate plan.</p> <p>20 (Deposition Exhibit Number 168</p> <p>21 was marked for identification.)</p> <p>22 Q (MR. TONER) Do you recall preparing this email and</p> <p>23 attachment around June 2, 2011?</p> <p>24 A I do not recall.</p> <p>25 Q Sure, but any reason to think you didn't do t?</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 224</p> <p>1 A No.</p> <p>2 Q The email is sent from and to your own email</p> <p>3 address at Sterling Corporation, right?</p> <p>4 A Yes.</p> <p>5 Q I often do that so that others who are copied on an</p> <p>6 email can't see who else I'm copying, sort of a way</p> <p>7 to do BCC's without the copy recipients seeing</p> <p>8 that. Is that something you ever do?</p> <p>9 A I've used BCC before.</p> <p>10 Q I'm trying to figure out why you might have</p> <p>11 formatted it that way.</p> <p>12 A I don't know. I -- I don't know.</p> <p>13 Q Who was requesting an alternate for the lines</p> <p>14 around Holland, Michigan, at that time?</p> <p>15 A I don't know. I don't know if this is in regard --</p> <p>16 I don't know what plan, House, Senate,</p> <p>17 congressional, this is in regard to.</p> <p>18 (Deposition Exhibit Number 169</p> <p>19 was marked for identification.)</p> <p>20 Q (MR. TONER) You might want to keep that last</p> <p>21 exhibit handy --</p> <p>22 A Okay.</p> <p>23 Q -- because Exhibit 169 has the same date, June 2,</p> <p>24 2011 --</p> <p>25 A Uh-huh.</p>	<p style="text-align: right;">Page 226</p> <p>1 write "Is Upton cool with it?"</p> <p>2 Who is Upton?</p> <p>3 A Congressman Upton.</p> <p>4 Q Do you recall if he was cool with it?</p> <p>5 A I have no idea if he was cool with it or not.</p> <p>6 (Deposition Exhibit Number 170</p> <p>7 was marked for identification.)</p> <p>8 Q (MR. TONER) Exhibit 170 appears to be another email</p> <p>9 from Jamie Roe to you about mapping, correct?</p> <p>10 A Yes, it's titled "Map."</p> <p>11 Q And he's asking about I take it McCotter's</p> <p>12 congress onal district. Is that true?</p> <p>13 A No, I believe it's Candice Miller.</p> <p>14 Q I'm sorry, Miller. My bad.</p> <p>15 Why was a finger drawn that would extend</p> <p>16 down into the industrial area he's referring to?</p> <p>17 A I believe he's referring to the shape of the split</p> <p>18 in Sterling Heights.</p> <p>19 Q And was that spl t drawn to satisfy the desire to</p> <p>20 grab corporate facil ties in that area and include</p> <p>21 them in the district, as requested here?</p> <p>22 A I don't know -- it doesn't refer to why he wanted</p> <p>23 to extend to 15 Mile, it just indicates that the</p> <p>24 territory involved has zero population. It does</p> <p>25 say "good companies." That's -- I don't know what</p>
<p style="text-align: right;">Page 225</p> <p>1 Q -- and it's titled "Regarding Holland."</p> <p>2 A Okay.</p> <p>3 Q It also has a bit of a map attached.</p> <p>4 Does that help refresh your recollect on</p> <p>5 on what was going on at the time concerning</p> <p>6 Holland?</p> <p>7 A Yes.</p> <p>8 Q What do you recall?</p> <p>9 A I recall that the -- what became the 6th</p> <p>10 Congressional District in the enacted plan was</p> <p>11 roughly 2,000 people too large, and that 2,000 or</p> <p>12 so people from Allegan County needed to be shifted</p> <p>13 into the second district, and that this pertains to</p> <p>14 where that split within the city of Holland would</p> <p>15 occur to bring both districts into population</p> <p>16 compliance.</p> <p>17 Q Were you able to manipulate the spl t in order to</p> <p>18 include Herman Miller, LG Chem Michigan, Haworth,</p> <p>19 Inc., and Holland Christian High School?</p> <p>20 A I don't know if I was or not. I see those</p> <p>21 addresses listed here. I don't know where those</p> <p>22 addresses are on this map or if that -- on the</p> <p>23 final map that was enacted where those businesses</p> <p>24 are.</p> <p>25 Q At the bottom of the first page of Exhibit 169 you</p>	<p style="text-align: right;">Page 227</p> <p>1 that refers to specifically.</p> <p>2 Q D d he later thank you for carrying this out?</p> <p>3 A I don't recall. Perhaps, perhaps not.</p> <p>4 (Deposition Exhibit Number 171</p> <p>5 was marked for identification.)</p> <p>6 Q (MR. TONER) Is Grosse Pointe, Michigan, a</p> <p>7 Republican or Democrat area?</p> <p>8 A I don't know that can be classified as either.</p> <p>9 Q Do you recall discussions in early June about</p> <p>10 trying to include the Grosse Pointes in the</p> <p>11 9th District?</p> <p>12 A No, other than the email here indicates that. But</p> <p>13 I should clarify the email doesn't indicate -- it</p> <p>14 just says that this version includes the areas</p> <p>15 known as the Grosse Pointes in the 9th. It doesn't</p> <p>16 say that that was, you know, a goal, it's just a</p> <p>17 way to identify the map.</p> <p>18 Q If you look at the attached map, that's drawn so</p> <p>19 that the 7th District on the very, I guess, eastern</p> <p>20 edge of the state comes way down with sort of a</p> <p>21 curved finger there, do you see that, next to the</p> <p>22 lake? Grosse Pointe Woods, Grosse Pointe Farms?</p> <p>23 Oh, the 4th. I'm sorry.</p> <p>24 A I do.</p> <p>25 Q Well, are we dealing w th water out here?</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 228

1 **A Yes, the blue would be water.**
2 **And I do see that this refers to Supreme**
3 **Court plans and not any of the enacted plans --**
4 Q Thank you.
5 **A -- from the title.**
6 Q Gotcha.
7 (Deposition Exhibit Number 172
8 was marked for identification.)
9 Q (MR. TONER) Exhibit 172 is an email you sent to Bob
10 LaBrant in June of 2011, June 8 to be exact,
11 correct?
12 **A Yes.**
13 Q At that time, who was requesting this change?
14 **A I don't know what change this is. I don't --**
15 Q If you look at the second paragraph, it says by
16 taking all of Auburn Hills away from McCotter, it
17 goes on to require splitting some other townships.
18 Does that help refresh your recollection?
19 **A No. I'm reading the rest of it.**
20 **I don't recall this specific**
21 **configuration.**
22 Q And you don't recall who was requesting it?
23 **A No, I don't.**
24 Q You certainly thought it would be improper,
25 correct?

Page 230

1 **well.**
2 Q And how wide is that?
3 **A I don't know how wide it is.**
4 Q How wide is it in the enacted map? More than a few
5 miles?
6 **A However wide the city boundaries are.**
7 Q Right. What's your guess having lived here all
8 your life?
9 **A A matter of miles.**
10 Q Likewise, if we look over on the right at that
11 finger through Sterling Heights, are we talking
12 just a matter of a few miles there?
13 **A Yes.**
14 **(Deposition Exhibit Number 173**
15 **was marked for identification.)**
16 Q (MR. TONER) If we flip to the second page first, I
17 think that's the oldest email in this thread that
18 is Exhibit 173.
19 **A Uh-huh.**
20 Q And in it is Andy Keiser asking you for some sort
21 of election numbers for the proposed 8th
22 Congressional District?
23 **A He asked me to confirm CD numbers and data you**
24 **provided. He refers to historical election data.**
25 Q You had already provided him data that showed the

Page 229

1 **A Correct. With the application of the Apol**
2 **criteria, it added many unnecessary splits of**
3 **Independence, Orion, Oakland Township, just to name**
4 **three that are obvious here.**
5 Q You called it contrived, oddly shaped, and a good
6 candidate for the redistricting hall of shame?
7 **A I did say that.**
8 Q We don't have a scale on this map, but how skinny
9 is that little isthmus in the 14th District there?
10 **A Where?**
11 Q On page 2 right in the center of the diagram.
12 **A (Pointing) You're talking about up here?**
13 Q No.
14 **A Oh.**
15 Q Sylvan Lake, Keego Harbor, do you see that?
16 **A Yes.**
17 Q As I read it in terms of the color coding, the 14th
18 District would wrap around and go right through
19 that area right to the north to grab Pontiac and
20 include it in the district.
21 **A The 14th here in this map and in the enacted plan**
22 **includes Keego Harbor -- well, I can't say for**
23 **certain. It includes at least Sylvan Lake if not**
24 **Keego Harbor. I'd have to look at the map to**
25 **verify. It might include Orchard Lake Village as**

Page 231

1 proposed district would have produced 54.76 percent
2 for Bush back in 2004?
3 **A That's what he indicates in his email.**
4 Q Do you have any reason to doubt him?
5 **A No.**
6 Q And I'm curious about what's at the bottom of the
7 first page, an email from you to Mr. Keiser that
8 afternoon of June 9. You say, "I've asked that the
9 data be run and the legislative platform."
10 What were you doing there?
11 **A Well, I've mentioned before the shared election**
12 **history database prepared by the Eric Swanson**
13 **office -- I don't know what it was called -- that I**
14 **did not have access to.**
15 Q Got it. So it's on the legislative platform?
16 **A Correct.**
17 Q Run these boundaries against the legislative
18 platform database?
19 **A Correct. I did not have that. My data was not**
20 **that precise.**
21 Q Were you able to get Mr. Keiser what he needed
22 around June 13?
23 **A I don't know. Typically, if I said I would get**
24 **somebody something, I did.**
25

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 232

1 (Deposition Exhibit Number 174
2 was marked for identification.)
3 Q (MR. TONER) Exhibit 174 is another one of these
4 emails where you've emailed yourself at Sterling
5 Corporation, right? From Jeff Timmer to Jeff
6 Timmer?
7 A Yes.
8 Q And do you know whether you BCC'd anyone on this
9 email?
10 A I do not.
11 Q It says that the attachment is an alternate version.
12 What was that an alternative to?
13 A I don't even know what it's a version of before I
14 can answer that question.
15 Q Go ahead and look it over.
16 A It appears by the number to be a congressional
17 plan. I have no idea any other context.
18 Q If you look at the drawing of District 9, Bates
19 Number 946 in this exhibit, were you happy with
20 that proposed district?
21 A I don't recall that my feelings entered into the
22 thought process at the time. I don't have any
23 idea.
24 Q Were you proud of it?
25 A Same answer. I have no idea what I felt about the

Page 234

1 County so long as they vote our way."
2 Does that help you recall what was going
3 on in terms of negotiations with Democrats?
4 A There -- there were negotiations with Democrats
5 that I'm aware of and referred to in my report from
6 June, and some of those Democrats in both the House
7 and the Senate who supported passage of the enacted
8 plans were from Wayne County.
9 Q Were the Republicans threatening the Democratic
10 incumbents that they would place two of them in the
11 same district if they didn't play ball?
12 A I didn't -- not that I have knowledge of. I don't
13 know.
14 Q Is there anything about the Apol criteria that
15 would require the Legislature to avoid putting two
16 incumbents in the same district?
17 A There may have been circumstances required to get
18 votes for passage.
19 The Apol criteria could necessitate, you
20 know, if -- minimizing county breaks or municipal
21 breaks could result in incumbents being paired.
22 Q Right. And does the statute or the correspondence
23 back in 1982 say that it's important to try and
24 avoid pairing incumbents against one another?
25 A No.

Page 233

1 district.
2 Q As you looked over the political data that you
3 included there, did that make you happy?
4 A I have no recollection.
5 Q Well, let's take District 11 on the next page. Is
6 that a district you're proud of drawing?
7 A I have no recollection.
8 Q Were you happy with the expected political results
9 there on the right side of the document?
10 A No, I have -- I have no recollection of my
11 feelings.
12 Q What about District 13? Did you anticipate any
13 public relations problems from the shape of that
14 district or District 14 in this packet?
15 A I have no recollection.
16 (Deposition Exhibit Number 175
17 was marked for identification.)
18 Q (MR. TONER) Is Exhibit 175 an email you received
19 from Brian Began on June 14, 2001?
20 A Yes, it's to Terry Marquardt and myself.
21 Q What did you understand "No Wayne primary to
22 accomplish," this drawing?
23 A I don't know.
24 Q Well, Mr. Began wrote "Here's the map that we will
25 likely use as it doesn't primary to Dems in Wayne

Page 235

1 (Deposition Exhibit Number 176
2 was marked for identification.)
3 Q (MR. TONER) Exhibit 176 is a thread of emails
4 between you and Stu Sandler and Bob Schostak,
5 correct?
6 A Yes.
7 Q And you've attached to your email proposed
8 boundaries for Congressional District 11; is that
9 right?
10 A Yes.
11 Q And your software provided you with a breakdown of
12 what the voting results would be in that proposed
13 district, correct?
14 A Not what the results would be but what the
15 historical behavior of that district would have
16 been.
17 Q Thank you. And each of those results is expressed
18 as a Republican vote share, is it not?
19 A Well, one of them refers to demographic race data.
20 Q Each of the election result figures refers to
21 Republican vote share, correct?
22 A Correct.
23 Q Thank you. Do you recall following up with Bob
24 Schostak to walk him through this proposal for
25 District 11?

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 236

1 **A I do not.**
2 Q Do you recall whether Mr. Schostak or Mr. Sandler
3 expressed any concerns about the shape of your
4 proposal?
5 **A No.**
6 **(Deposition Exhibit Number 177**
7 **was marked for identification.)**
8 Q (MR. TONER) Is Exhibit 177 a thread of emails
9 between you and Jeff -- you and Jamie Roe primarily
10 concerning the configuration of Sterling Heights in
11 the proposed congressional district?
12 **A It looks to be.**
13 Q And you prepared the last two documents on this
14 exhibit, right, using Maptude, both a version
15 without the street names and another version that
16 has the street names, correct?
17 **A That appears to be correct, yes.**
18 Q All right. Were you able to accommodate the
19 request to configure this finger of territory the
20 way Jamie and Candice were requesting?
21 **A I don't know for certain that it met everything**
22 **that they had requested in this chain or others**
23 **that you have shown me. I do know that by the --**
24 **that the configuration that was enacted contained**
25 **the minimum number of splits of cities or**

Page 237

1 townships, and how that split in Sterling Heights
2 was precisely arrived at to achieve the population
3 equality between the 10th and the 9th District -- I
4 don't know if this is a final version or not. I'd
5 have to match this up and probably look at greater
6 detail than exists on those maps.
7 Q One second. I'm going to hand you the map.
8 Can you find the finger in there in the
9 detailed insert on that map?
10 **A I see what looks to be that shape here, but this**
11 **northeast corner of Sterling Heights is different.**
12 Q Right. It's a little more jagged, isn't it, in the
13 enacted version?
14 **A It is. It's just different. I don't know if it's**
15 **less or more jagged.**
16 Q In terms of the finger discussed in this email,
17 would you say that's close enough for government
18 between your proposal and the enacted version?
19 **A I -- I can't tell if this extends as far as that**
20 **does or if this is a previous iteration.**
21 **I do know that the strange -- when you**
22 **get into southeast Michigan, and Wayne and Oakland**
23 **and Macomb Counties especially, you have compact**
24 **population and you have strange municipal**
25 **boundaries evident in the maps you've shown me from**

Page 238

1 **the 11th District, from the 13th and the 14th, and**
2 **that required some what Justice Levin in his 1982**
3 **correspondence would refer to as districts that are**
4 **displeasing to the eye.**
5 Q Right. But to be fair, what we're talking about on
6 the finger is industrial facilities with
7 essentially no or very little population, but
8 rather there are some "good companies in there that
9 we would like to grab" wrote Jamie on the 15th --
10 on June 2?
11 **A Jamie did write that.**
12 Q Yeah. And when you wrote to Jamie on June 15, you
13 said "Please confirm if this is good for you and
14 Candice," and then he responded that evening
15 "Perfect."
16 Was that ambiguous in your mind? Page 1
17 at the top.
18 **A No, that looks like they were satisfied.**
19 Q More than satisfied, wouldn't you say, since he
20 writes "It's giving the finger to Sandy Levin"?
21 **A He did write that. I've read that in news**
22 **accounts. But that's not -- that's also not the**
23 **district -- or the configuration that was enacted**
24 **into law.**
25 Q Pretty close, though, in terms of the finger,

Page 239

1 right?
2 **A There are some differences.**
3 Q There are?
4 Do you consider them material in terms of
5 grabbing the industrial area they were hot to get
6 because of which corporations have facilities
7 there?
8 **A That I don't know. I never looked at where**
9 **companies were located. I took their word.**
10 **(Deposition Exhibit Number 178**
11 **was marked for identification.)**
12 Q (MR. TONER) Is Exhibit 178 a thread of emails
13 between you and Jamie Roe covering a period of June
14 2 through June 16, 2011?
15 **A It appears to be. I don't know if it's inclusive**
16 **or different of any of the previous exhibit.**
17 Q At the bottom of the first page of this exhibit
18 Jamie wrote, he says, "Hate to be a pain in the
19 ass, but is there any way to include that little
20 notch in the northeast corner south of 19 Mile
21 maybe down another half mile?"
22 Were you able to accommodate his request?
23 **A I don't know.**
24 Q Well, in the response you sent two minutes later
25 you wrote "I'm happy to accommodate you and

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 240</p> <p>1 Cand ce," right?</p> <p>2 A I do say that there. I don't know if I did. I</p> <p>3 don't know if I could without -- without other maps</p> <p>4 being shown.</p> <p>5 Q When you wrote "You're turning into Jack Daly,"</p> <p>6 what d d you mean?</p> <p>7 A Frequent suggestions on changes to districts.</p> <p>8 (Deposition Exhibit Number 179</p> <p>9 was marked for identification.)</p> <p>10 Q (MR. TONER) Speaking of Jack Daly, do you recognize</p> <p>11 Exhibit 179 as an email that he sent to you on June</p> <p>12 16 t tled "I know you'll like this one"?</p> <p>13 A I don't recall the specific email or attachment.</p> <p>14 Q Any reason to think you didn't get it?</p> <p>15 A No.</p> <p>16 Q Did you like this one?</p> <p>17 A I don't have any recollection.</p> <p>18 Q What does it mean "Obama plural ty instead of</p> <p>19 majority with no extra breaks"? What d d that mean</p> <p>20 to you?</p> <p>21 A I would assume that he meant Obama had more votes</p> <p>22 in this configuration but not a majority.</p> <p>23 This isn't the adopted plan, so I don't</p> <p>24 know -- like -- Jack sent a lot of emails and a lot</p> <p>25 of suggestions.</p>	<p style="text-align: right;">Page 242</p> <p>1 Q (MR. TONER) D d you receive some proposed maps that</p> <p>2 were being circulated by Pete Lund around June 16?</p> <p>3 Just strike the question.</p> <p>4 What was being discussed in this thread</p> <p>5 of emails that is Exhibit 181?</p> <p>6 A I'd need to take a second to refresh.</p> <p>7 Q Thank you.</p> <p>8 A This appears to be something related to</p> <p>9 dissatisfaction with -- by Justin Amash that we had</p> <p>10 discussed earlier today.</p> <p>11 Q When you wrote Dan McMaster late on Thursday, June</p> <p>12 16 "Good idea. Let's diminish the gains in</p> <p>13 Benishek and Walberg. Oh, and let's piss off</p> <p>14 Kamp," were you being sarcastic?</p> <p>15 A It seems that I was.</p> <p>16 Q When LaBrant responded and said, "This guy is</p> <p>17 nuts," d d you agree w th him?</p> <p>18 A I wished I had a Facebook like button.</p> <p>19 (Deposition Exhibit Number 182</p> <p>20 was marked for identification.)</p> <p>21 Q (MR. TONER) Exhibit 182 is another one of those</p> <p>22 what I'll call slightly mysterious emails that you</p> <p>23 sent to yourself apparently. Can you tell me what</p> <p>24 was attached?</p> <p>25 A No other than what the attachment is labeled.</p>
<p style="text-align: right;">Page 241</p> <p>1 Q Were these being prepared in his office or at the</p> <p>2 R&C or somewhere else?</p> <p>3 A I have no idea.</p> <p>4 Q Had it been adopted, would t have affected</p> <p>5 Democrat c pol t cal strength in that area?</p> <p>6 A I don't know, there's only one district shown.</p> <p>7 (Deposition Exhibit Number 180</p> <p>8 was marked for identification.)</p> <p>9 Q (MR. TONER) Did you send an email to Stu Sandler on</p> <p>10 June 15 discussing a proposed configuration of the</p> <p>11 9th District?</p> <p>12 A I forwarded an email from Jack -- an unsolicited</p> <p>13 email from Jack Daly making such a proposition.</p> <p>14 Q And what was your reaction to the proposal? Did</p> <p>15 you think it had a chance?</p> <p>16 A I think it paired two incumbents that would have</p> <p>17 had a problem with retrogression in the Voting</p> <p>18 Rights Act, and I think it added a county break and</p> <p>19 would have had a problem with the Apol criteria.</p> <p>20 Q D d you make any effort to talk Jack Daly out of</p> <p>21 such proposals at that time?</p> <p>22 A I tried to avoid making eye contact at that point</p> <p>23 in time.</p> <p>24 (Deposition Exhibit Number 181</p> <p>25 was marked for identification.)</p>	<p style="text-align: right;">Page 243</p> <p>1 Q Can you tell me what happened to the attachment?</p> <p>2 A No, if it wasn't attached to the email.</p> <p>3 Q Okay. What does "VAP data" refer to, as best you</p> <p>4 can recall?</p> <p>5 A The acronym would refer to voting age population.</p> <p>6 Q Any educated guess about what area we're talking</p> <p>7 about here?</p> <p>8 A No. I mean, it could be any of the plans,</p> <p>9 congressional, House, or state, I have no idea.</p> <p>10 Could have been raw data, just numbers of, you</p> <p>11 know, population, I don't know.</p> <p>12 MR. KNAPP: Now would be a good time for</p> <p>13 a break, Kevin --</p> <p>14 MR. TONER: Sure.</p> <p>15 MR. KNAPP: -- or any time in the near</p> <p>16 future.</p> <p>17 MR. TONER: Now is fine.</p> <p>18 (Break taken at 2:46 p.m.)</p> <p>19 (Break concluded at 3:03 p.m.)</p> <p>20 (Deposition Exhibit Number 183</p> <p>21 was marked for identif cat on.)</p> <p>22 Q (MR. TONER) Mr. Timmer, I want to ask you a few</p> <p>23 questions about the 3rd Congressional Distr ct and</p> <p>24 when you communicated with Greg McNeilly in June of</p> <p>25 2011, specifically around the 18th of that month,</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 244

1 about some objections Congressman Amash might have
2 been making.
3 **A Yes.**
4 **Q** Do you recall that, generally?
5 We have in front of you Exhibit 183. Do
6 you recognize that as an email that Greg McNeilly
7 sent you and a response that you sent to him along
8 with a couple of attachments?
9 **A Yes.**
10 **Q** And then after sending that, am I right that you
11 forwarded this on to Daniel McMaster? Is that
12 true?
13 **A Yes.**
14 **Q** Mr. McNeilly's email there at the bottom of the
15 first page is at FightHard.com. Are you familiar
16 with Fight Hard?
17 **A No.**
18 **Q** Do you think that might be one of the DeVos
19 operations?
20 **A I don't know.**
21 **Q** Okay. When McNeilly wrote "Amash is concerned with
22 Calhoun, and LaBrant suggested I touch base with
23 you," did you understand that to be a concern about
24 weakening Republican support by adding Democrats
25 from Calhoun into the 3rd District?

Page 246

1 **the Amash objections came as the House, the State**
2 **House, was -- right before they were beginning to**
3 **take action on the legislative or congressional**
4 **plans, or both.**
5 **Q** The configuration of the 3rd District that the
6 House was about to enact would have still shown
7 strong Republican support in the 3rd District,
8 right?
9 **A Well, it shows that there were -- this shows the**
10 **election history in what I called the old 3rd**
11 **versus new 3rd, and there are several elections in**
12 **which Republicans -- Republican candidates did well**
13 **and at least one where they didn't.**
14 **Q** The one being the year Barack Obama was elected?
15 **A Correct.**
16 **Q** I think in the prior email, at least one version of
17 the 3rd District you described as the second best
18 Republican district in the state of Michigan,
19 right?
20 **A I recall you asking me that, and it does say that**
21 **here --**
22 **Q** Ah, it says it also here.
23 **A McNeilly's email says that. I don't know that I**
24 **make any such conclusion.**
25

Page 245

1 **A No, I took it to mean that adding recently former**
2 **Congressman Mark Schauer into the district was a**
3 **concern.**
4 **Q** Well, what would adding that one former congressman
5 to the district have to do with providing this
6 baseline election data that is referenced in your
7 email in the middle of the page?
8 **A He asked me for it and I provided it.**
9 **Q** Okay. So this is the baseline information that you
10 had there in the middle of the page and on these
11 attachments?
12 **A It appears to be.**
13 **Q** The attachments showing election results for the
14 proposed districts covering a period 2006 to 2010,
15 is that information you assembled from the
16 Mapitude software?
17 **A It's information that the software would have**
18 **automatically calculated and that I provided per**
19 **the request.**
20 **Q** And then did you send this on to Mr. McMaster so
21 that he might compare your information to the more
22 accurate and official election data that he had
23 access to?
24 **A I don't -- I don't recall. I don't know what -- I**
25 **don't recall sending it to Dan or -- I do know that**

Page 247

1 (Deposition Exhibit Number 184
2 was marked for identification.)
3 **Q** (MR. TONER) Exhibit 184 appears to be two emails
4 from you and two from Terry Marquardt on June 20
5 and June 21, 2011, correct?
6 **A Yes.**
7 **Q** What were the draft congressional plan comparison
8 talking points?
9 **A The comparison seems to be -- include nine Benson**
10 **plans and the Sarpolus plan. That's all I -- the**
11 **only context I have.**
12 **Q** What did you contribute to fine-tuning the talking
13 points?
14 **A My -- my role with regard to the interaction with**
15 **the Senate or House plans would have been regarding**
16 **the Apol comparison of the plans, the congressional**
17 **as well. That's -- that's the role I would have**
18 **played in such a comparison.**
19 **Q** Do you see any reference to any lawyers or law
20 firms here in your email who represented either you
21 or Sterling Corporation?
22 **A Well, I see reference to attorneys. I guess I**
23 **don't know how to answer the question.**
24 **Q** Was your attorney on the list?
25 **A You are my attorneys in this. I don't know how to**

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 248

1 answer that.
2 Q Certainly Mr. Ellsworth is here to help you
3 today --
4 A Right.
5 Q -- but was he acting as your attorney, as you
6 understood it, back in June of 2011?
7 A I don't recall thinking about it.
8 Q Do you recall ever seeing an engagement letter
9 between Sterling Corporation and Dickinson Wright?
10 A No. I was working with the Legislature and MRRI.
11 Q And were you able to provide Mr. Marquardt data
12 showing population and racial breakdown as he
13 requested?
14 A I know nothing other than the -- what the email
15 indicates, that it says information is attached.
16 Q Yeah. Your email on June 20 at 8:56 p.m. says
17 "elect on data chart attached."
18 Do you know what happened to that?
19 A No.
20 Q Marquardt writes back in the wee hours and says
21 "Which numbers did you use to come up with the
22 5-4-5 political breakdown?"
23 What was he referring to?
24 A I don't know.
25 Q What's your understanding of a 5-4-5 configurat on

Page 250

1 A I have fuzzy recollection of -- no, I don't
2 specifically recall this email. I have a
3 recollection of in July there being some concern
4 mentioned about plans that had been adopted in
5 June.
6 Q At the top of the second page Jon Cotton wrote "Can
7 we still have the map drawers draw a favorable
8 Republican district with the points all together?"
9 Do you know what district he was
10 referring to?
11 A In my email I indicate the adopted State House
12 plan.
13 Q You wrote back to Mr. Schostak there at the top of
14 the first page "I imagine those ten districts can
15 easily be withdrawn -- redrawn."
16 Were they, in fact, redrawn?
17 A No, I don't think there were any changes to the
18 enacted plans as they passed the Legislature.
19 Q If they had been redrawn, then would it have
20 changed that area from ten districts to nine House
21 districts?
22 A No, it would have changed the number of
23 majority-minority districts.
24 Q So one fewer majority-minority district?
25 A Correct.

Page 249

1 or breakdown?
2 A I assume it has a reference to partisanship.
3 (Deposition Exhibit Number 185
4 was marked for identification.)
5 Q (MR. TONER) Is Exhibit 185 an email that you sent
6 to Robert LaBrant on or about June 28, 2011?
7 A Yes.
8 Q Were you seeking any legal advice from Mr. LaBrant?
9 A I have no idea what this refers to.
10 Q Were you providing any litigation strategy to
11 Mr. LaBrant?
12 A Based on what you've handed me, I have no context.
13 Q Do you know what information you communicated to
14 him at that time?
15 A No.
16 Q Do you have any understanding of why this
17 information was redacted as part of the litigation?
18 A No.
19 (Deposition Exhibit Number 186
20 was marked for identification.)
21 Q (MR. TONER) Go ahead and look over 186, and let me
22 know when you're done.
23 A Okay.
24 Q Do you recall receiving this email thread in
25 Exhibit 186 from Mr. Schostak around July 15?

Page 251

1 Q And was it your conclusion that that was very
2 likely to result in litigation if that were to
3 occur?
4 A I mention here that my concern would be going
5 through this exercise is what I wrote, would
6 possibly -- I'm referring to possible negative
7 implications and defer to the attorneys.
8 (Deposition Exhibit Number 187
9 was marked for identification.)
10 Q (MR. TONER) What can you tell me about the last two
11 pages of Exhibit 187 from Mr. Ellsworth with the
12 subject that says "Rejected Plans" and attached map
13 of District 5?
14 A I have no recollection.
15 Q When you sent your email to a number of people,
16 including Mr. Ellsworth, on July 13 and you said
17 "see below," do you think that was including that
18 map of District 5?
19 A I don't know.
20 Q Perhaps more likely after you got Dan McMaster's
21 email at the top of the first page and he said
22 "When you have a minute, could you please email me
23 your 5th District map with election numbers?" do
24 you think that last page is what you prepared and
25 sent to him on July 22nd?

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 252

1 **A I don't know. It's two days later.**
2 Q As of July 22nd, this drawing of District 5, is
3 that pretty much the final district configurat on?
4 **A I don't know, I'd have to look there, but this is**
5 **long after -- this is a month after the plans were**
6 **enacted.**
7 Q Okay. When McMaster wrote "I've had a request from
8 someone," did you ever figure out who?
9 **A I have no recollection.**
10 **(Deposition Exhibit Numbers 188 and 189**
11 **were marked for identification.)**
12 Q (MR. TONER) D d Terry Marquardt provide you with a
13 list of incumbent addresses around August 4 of
14 2011?
15 **A It appears he did.**
16 Q And is 189 that list do you think?
17 **A It appears that there's a column here that says**
18 **"Addresses" and is redacted beneath, so . . .**
19 Q Right. The street addresses I assume were
20 redacted?
21 **A Correct.**
22 Q Do you agree?
23 **A It appears.**
24 Q And the first column would show whether it's a
25 Senate district, a House district, or -- let's

Page 254

1 **A I do.**
2 Q And you write "Will you forward these to whoever at
3 GLEP was requesting"?
4 **A Uh-huh.**
5 Q What is that organization, GLEP?
6 **A Great Lakes Education Project.**
7 Q Do you know why these maps were provided to that
8 organization?
9 **A I do not.**
10 Q Do you know if that organization has a connection
11 to the DeVoses?
12 **A It has. I don't know if it does.**
13 Q Mr. Schostak appears to have sent you an email on
14 August 5 asking for the latest maps sent to the
15 governor for approval, right?
16 **A Yes.**
17 Q And do you know why that request was made?
18 **A I do not. I don't know that he indicates in here.**
19 Q Why did you wr te in your email there at the top of
20 the page "I'm not sure if you are aware. Please
21 keep this under wraps if you're not yet aware"?
22 And you go on to talk about ten districts in
23 Detroit.
24 **A Uh-huh.**
25 Q Why was that important to keep that under wraps?

Page 253

1 see -- just Senate or House Districts, right?
2 **A It appears that way, yes.**
3 Q Okay. And this document also tracks whether the
4 representative is -- or senator is a Republ can or
5 a Democrat, correct?
6 **A Does it? I don't see that it does.**
7 Q Look at the last four pages.
8 **A Oh.**
9 Q ZIP Codes and party?
10 **A Yeah, I do see that now, yes.**
11 **This looks like it could have come from**
12 **the Michigan manual, aside from the street**
13 **addresses.**
14 Q Do you know why Mr. Marquardt needed this -- or was
15 providing you this information at that time?
16 **A No.**
17 **(Deposition Exhibit Number 190**
18 **was marked for identification.)**
19 Q (MR. TONER) You have before you what's marked as
20 Exhibit 190 which appears to be an email thread
21 covering a period from July 30 through August 6.
22 Do you recall these communications?
23 **A Not specifically.**
24 Q If we go to the last page, there's an email there
25 from you to Stu Sandler; do you see that?

Page 255

1 **A I mentioned before earlier today that there were**
2 **negotiations with the legislative black caucus**
3 **prior to the governor signing the bills.**
4 Q So you were trying to keep the information that the
5 Republicans were sharing at least conf dential to
6 that extent, out of the press and away from the
7 black caucus?
8 **A I understood there were sensitive legislative**
9 **negotiations going on.**
10 Q When you mentioned the Grosse Pointes wrinkle, what
11 were you referring to?
12 **A Perhaps the -- I don't recall specifically except**
13 **talking about the Grosse Pointes a couple of**
14 **exhibits ago. I don't know if it's related to that**
15 **or not.**
16 Q There's some good political donors in that area?
17 **A I know that Jon Cotton lived in that area based on**
18 **that email chain.**
19 Q And you close your email talking about the GP
20 dollar sign, dollar sign folks. Who are you
21 talking about there?
22 **A Presumably Jon Cotton.**
23 MR. TONER: I'll take a couple minutes to
24 just look through my briefcase. We may be done.
25 (Break taken at 3:27 p.m.)

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 256

1 (Break concluded at 3:30 p.m.)
2 Q (MR. TONER) Mr. Timmer, as you reflect for a second
3 on your answers to my questions today and a week
4 ago, are there any answers at this time that you
5 feel need to be corrected or supplemented in any
6 way?
7 A **Not that I can think of.**
8 MR. TONER: You'll have an opportunity to
9 review the transcript and correct any typos, make
10 sure your testimony is accurate and complete. And
11 I thank you for your time. Those are all the
12 questions I have at this time.
13 THE WITNESS: Okay.
14 MR. ELLSWORTH: I just have a few things
15 to clarify.
16 EXAMINATION
17 BY MR. ELLSWORTH:
18 Q Mr. Timmer, did you attend meetings at Dickinson
19 Wright with the other map drawers?
20 A **Yes.**
21 Q Did you regard those -- the discussions in those
22 meetings as being confidential?
23 A **Yes.**
24 Q And during those meetings, did the map drawers you
25 included ask for and receive advice from the

Page 258

1 elect on data, how did you use it in drafting
2 congress onal maps?
3 A **When drawing the maps I -- whether it was the --**
4 **your question is the congressional?**
5 Q On the congress onal, yes.
6 A **That I -- I drew the maps to best satisfy the Apol**
7 **criteria. The political or election history data**
8 **was simply a derivative of that where it -- it was**
9 **what it was. It was -- it was a natural question**
10 **that people asked and I provided.**
11 Q A week ago there was a quest on that you answered
12 with respect to who was present in the map drawer
13 meetings at Dickinson Wright, and you mentioned the
14 Chamber of Commerce through -- State Chamber of
15 Commerce through Robert LaBrant; is that correct?
16 A **I mentioned LaBrant being there, yes.**
17 Q Was he there in his capac ty as an employee of the
18 state chamber?
19 A **No, my interaction with Bob was with his role as**
20 **president of MRRI.**
21 Q And was MRRI a part of the Chamber?
22 A **No.**
23 Q The legislative -- the statutory cr teria we
24 shorthanded to mean the Apol cr teria, but I'm
25 going to call it the statutory criteria here for

Page 257

1 lawyers, including Dickinson Wright?
2 A **Yes.**
3 Q You had indicated early on in this part of the
4 deposition today that there were some deviat ons
5 from the Apol criteria sometimes in order to get
6 votes; do you recall that?
7 A **Correct.**
8 Q Were those Republican votes, Democratic votes, or
9 both?
10 A **They were both. The passage of the plan included**
11 **Democrats in the Legislature who voted for passage**
12 **and Republicans who voted against it.**
13 Q Okay. Now, those deviations, I'm going to ask you
14 just to move it along with respect to all three of
15 the maps, the congress onal and the state -- the
16 state legislative maps, were those deviations from
17 Apol frequent? And I think you've covered a lot of
18 these in your report.
19 A **No, in the report I do. They're -- I regard them**
20 **as very few that -- there were very few instances**
21 **where the strict application of the criteria**
22 **weren't applied.**
23 Q Okay. You may have clarified this through
24 additional questions today but I'm going to ask
25 this anyway. The political partisan history

Page 259

1 the moment. The congress onal statute is somewhat
2 different than the state legislative statute, isn't
3 it?
4 A **Yes.**
5 Q Would you just summarize those differences, not in
6 great detail, but just explain the basic
7 differences between the two?
8 A **Sure. The congressional criteria requires exactly**
9 **equal population of districts, does not allow**
10 **deviation in population between districts, and it**
11 **has, to the best of my recollection, no specific**
12 **requirement in there to shift the fewest number of**
13 **cities or townships when breaking a county line.**
14 **It has the same requirements or guidelines when it**
15 **comes to minimizing breaks at the county and**
16 **municipal level. Neither -- it -- the**
17 **congressional statute doesn't require compactness**
18 **of districts except in the one instance of Detroit**
19 **where a district can be drawn within a city.**
20 Q Are there any other cities in Michigan that
21 would -- that would -- where the compactness
22 criteria would apply?
23 A **In the congressional plan, no.**
24 Q Okay. Is protecting incumbents one of the cr teria
25 under Apol?

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 260

1 **A It is not.**
2 Q You have testified here today, however, that you
3 d d take incumbency into cons deration w th respect
4 to some of the districts?
5 **A Yes, with -- yes.**
6 Q Would you explain why that is?
7 **A One is it was important to secure enough votes for**
8 **passage of a plan. That was a key question that**
9 **legislators would often have is where do I live and**
10 **who else lives here, and also with regard to the**
11 **Voting Rights Act in the Congressional Districts 13**
12 **and 14 or the majority-minority districts in the**
13 **state legislative plans.**
14 Q Does the map drawer have more or less discretion,
15 in your opinion, under the congress onal standards
16 than the state legislative standards?
17 **A The congressional statute, again to my**
18 **recollection, does not include the specific mention**
19 **of shifting the fewest number of cities or**
20 **townships when breaking a county, though we did --**
21 **and I explain it in my report -- attempt to follow**
22 **that even though it wasn't a requirement.**
23 **So there -- there -- with regard to the**
24 **legislative plan, that being a very specific**
25 **criteria, it definitely limits the options. In the**

Page 262

1 Q When did you first become involved with the 2011
2 redistricting project?
3 **A I only hesitate because it's hard to say when 2001**
4 **ended and 2011 began.**
5 **During -- before 2011 I spent a number of**
6 **years at the Michigan Republican Party involved in**
7 **planning and preparation and I would say officially**
8 **became involved and paid to be involved times**
9 **beginning 2009.**
10 Q And that was before the Exhibit 144 was --
11 **A Yes.**
12 Q -- presented to MRRI, wasn't it?
13 **A Yes.**
14 Q Who was paying you for that involvement?
15 **A MRRI.**
16 Q Were you -- were you attending meetings at that
17 point with members of the legislature?
18 **A Yes.**
19 Q Leadership or whom?
20 **A There would have been legislative leadership as**
21 **well as legislative staff. Sometimes both,**
22 **sometimes just staff.**
23 Q By "leadership," that would include who?
24 **A The Senate majority leader and speakers of the**
25 **House.**

Page 261

1 **congressional statute it doesn't expressly limit**
2 **the options, but we chose to make it limiting.**
3 Q You were shown Exhib t Number 144 wh ch was the
4 proposal from Sterling made to MRRI. You can take
5 a look at it if you want.
6 **A 141 you said?**
7 Q 144.
8 **A 144. Okay.**
9 Q Now, that proposal outlines -- and you've discussed
10 this in your previous testimony -- t outlines a
11 number of things that Sterling proposed to do in
12 connection with the redistricting project. Was
13 that proposal accepted by MRRI?
14 **A It was not.**
15 Q What was MRRI employed to do by -- wa t a minute.
16 What was Sterling -- what were you
17 retained to do by MRRI?
18 **A In the proposal I was trying to upsell a**
19 **tremendous -- a broader variety of services that we**
20 **provide at Sterling. LaBrant made it clear that he**
21 **wanted me to draw the congressional plans and**
22 **advise on the Apol criteria adherence of the other**
23 **plans.**
24 Q It was lim ted to that?
25 **A Yes.**

Page 263

1 Q And the staff would be?
2 **A And the staff would have been people like Scott**
3 **Bean, Fred Hall, Terry Marquardt were Senate**
4 **examples. In the House people like Suzanne Miller**
5 **Allen, Joe Baumann, Dan McMaster.**
6 Q All right. I think most of those people have been
7 identified in var ous depos t ons, but Scott Bean,
8 what was his position w th the Legislature?
9 **A I don't -- I believe at one point Scott was the**
10 **deputy chief of staff to Randy Richardville.**
11 Q What role did he have w th respect to
12 redistricting?
13 **A He was my understanding was Randy's direct liaison,**
14 **and when Scott said, you know, this is what we'd**
15 **like to see, or this is what I'd like, that he was**
16 **conveying Randy's instructions.**
17 Q Did Suzanne Miller Allen have any role with respect
18 to redistr cting, if you know?
19 **A I think Joe Baumann and Dan McMaster were far more**
20 **involved than Suzanne, but I recall Suzanne being**
21 **involved in some of those meetings leading up to**
22 **2011.**
23 Q Okay. At one point this afternoon you were asked
24 about potential opponents to whatever plan the
25 Legislature came up w th and you identified some

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

<p style="text-align: right;">Page 264</p> <p>1 Democrat c interests. Were there any Republ can</p> <p>2 interests that you and others were concerned about</p> <p>3 opposing the plans?</p> <p>4 A Well, there were several legislators or congressmen</p> <p>5 who at various times were -- there was concern</p> <p>6 about as being opposed to. There were at least two</p> <p>7 members of the State House who were Republicans</p> <p>8 that voted against final passage of the plans, the</p> <p>9 legislative plans and I believe congressional plans</p> <p>10 both: Tom McMillin and Bob Genetski. There may</p> <p>11 have been more that voted against it, I just recall</p> <p>12 those two. We've talked about Thad McCotter and</p> <p>13 Justin Amash in particular as being concerned and</p> <p>14 at times opposed or threatening to be opposed and</p> <p>15 disrupting the legislative process.</p> <p>16 Q Do you recall any newspaper editorials at the time</p> <p>17 that the maps were being developed that complained</p> <p>18 about the process?</p> <p>19 A I don't recall.</p> <p>20 Q But you mentioned that there were some publ c</p> <p>21 complaints that were being made?</p> <p>22 A I recall complaints being made by partisans. I</p> <p>23 recall complaints being made by Mark, by other --</p> <p>24 Q Mr. Brewer?</p> <p>25 A Mr. Brewer, I'm sorry, yes.</p>	<p style="text-align: right;">Page 266</p> <p>1 A Correct.</p> <p>2 Q And to do that did the configuration of the</p> <p>3 districts depend on the ability to get enough</p> <p>4 African-American voting age populat on to meet that</p> <p>5 goal?</p> <p>6 A Yes. And I mentioned earlier too there's --</p> <p>7 because of the concentration of population in</p> <p>8 southeast Michigan, especially Wayne, Oakland, and</p> <p>9 Macomb Counties as well as sometimes, at least to</p> <p>10 the eye, strangely configured or narrow or small</p> <p>11 municipal boundaries resulted in some what appear</p> <p>12 to be strangely shaped districts. That people have</p> <p>13 referred to the 13th and 14th -- the 14th is often</p> <p>14 referred to, and I know David Daley in his book</p> <p>15 that we referred to last week uses that as -- as</p> <p>16 the example as he talks about Michigan, driving</p> <p>17 around the district in a strange shape, though in</p> <p>18 that book and since I've explained that it was the</p> <p>19 adherence to the Voting Rights Act as well as the</p> <p>20 application of the Apol criteria that resulted in</p> <p>21 that shape, as well as avoiding putting Hansen</p> <p>22 Clarke and John Conyers, who were incumbents at the</p> <p>23 time, in the same district.</p> <p>24 Q And they were of wh ch polit cal party?</p> <p>25 A Democrats.</p>
<p style="text-align: right;">Page 265</p> <p>1 Q Anybody else that you recall?</p> <p>2 A I don't specifically recall.</p> <p>3 Q The two minor ty-major ty districts in the</p> <p>4 congress onal plan are the 13th District and the</p> <p>5 14th District. Would you explain how those -- why</p> <p>6 those districts were drawn the way they were?</p> <p>7 A In the three redistricting cycles that I've played</p> <p>8 a part in in 1991 and '92 and in 2001 and again in</p> <p>9 2011, at the congressional level we've -- there</p> <p>10 have been two -- enough -- there's been enough</p> <p>11 minority population in and around the city of</p> <p>12 Detroit to configure congressional districts that</p> <p>13 have a majority African-American population. And</p> <p>14 so the sufficient population existed in 2011,</p> <p>15 though during the 20-year period that I've</p> <p>16 mentioned there, there has been a loss of</p> <p>17 African-American population in Detroit and an</p> <p>18 increase in African-American population in adjacent</p> <p>19 suburbs. And so the configuration of those</p> <p>20 districts and the expansion of communities around</p> <p>21 Detroit has changed from 1992 through 2011.</p> <p>22 Q You ment oned this afternoon that in those</p> <p>23 minority-majority distr cts, that your goal was to</p> <p>24 have an African-American voting age populat on</p> <p>25 somewhere north of 50 percent?</p>	<p style="text-align: right;">Page 267</p> <p>1 Q During the legislative cons deration of the</p> <p>2 congressional plan, did you receive any complaints</p> <p>3 from democratic legislators or democrat c staff</p> <p>4 members about the configurat on of the 14th or of</p> <p>5 the 13th Distr cts or both?</p> <p>6 A I received no complaints. In fact, I received from</p> <p>7 Alan Canady several options to configure the</p> <p>8 districts largely as they were enacted.</p> <p>9 Q Did Mr. Canady -- you had indicated before that</p> <p>10 Mr. Canady was the chief of staff to the Democrat c</p> <p>11 minority leader in the House?</p> <p>12 A That's my recollection, yes.</p> <p>13 Q Did he at any time offer you alternative maps of</p> <p>14 those two distr cts, the 13th and the 14th?</p> <p>15 A Yes.</p> <p>16 Q And were those maps acceptable to you?</p> <p>17 A It's my recollection that portions of them were. I</p> <p>18 don't know that his maps were ever adopted -- or</p> <p>19 were ultimately adopted as he introduced them, I</p> <p>20 think there was a -- you know, he said how about</p> <p>21 this, and it came back how about that.</p> <p>22 Q Were those maps appreciably different than the maps</p> <p>23 that you had drawn?</p> <p>24 A No, I think that somebody looking at them if I</p> <p>25 passed them around the table would have a hard time</p>

Deposition of Jeff Timmer Vol. II - 8/29/2018
League of Women Voters of Michigan, et al. v. Ruth Johnson, Secretary of the State of Michigan

Page 268

1 **discerning between the two.**
2 MR. ELLSWORTH: Okay, thank you. I think
3 that exhausts my quest ons.
4 I have one other issue before we go off
5 the record, but if you have additional questions
6 for Mr. Timmer, go ahead.
7 MR. TONER: Just a couple.
8 FURTHER EXAMINATION
9 BY MR. TONER:
10 Q Mr. Timmer, when you were talking about Bob LaBrant
11 and commun cating with him at MRRI and in his
12 capacity representing MRRI, did you mean to suggest
13 that you never commun cated w th him at the
14 Michigan Chamber of Commerce?
15 **A No, I -- I don't know where he was when I**
16 **communicated with him. Most of our communication**
17 **was done via email.**
18 Q Does he have a different office for MRRI business?
19 **A I don't know if he did or not.**
20 Q D d you sometimes send some emails or receive some
21 emails from him at his Chamber of Commerce address?
22 **A It's likely that I did.**
23 Q Is t also likely that you had telephone
24 conversat ons with him there at the Chamber of
25 Commerce?

Page 270

1 regard to a deposition that Jay was in was that it
2 remains confidential until such time as we've
3 reached some sort of agreement or the Court has
4 ruled on it.
5 MR. TONER: Without agreeing or waiving
6 our position on those documents, that portion of
7 the testimony and that document will be treated as
8 confidential.
9 MR. KNAPP: That's perfect. Thank you.
10 MR. ELLSWORTH: Thank you.
11 MR. TONER: Thank you.
12 (Record closed at 3:50 p.m.)
13 * * * * *

Page 269

1 **A I recall having telephone conversations. I don't**
2 **know where he was located.**
3 MR. TONER: I have no more questions.
4 Thank you.
5 MR. ELLSWORTH: I just have one other
6 thing, and that has to do w th Exhibit 164 wh ch
7 was inadvertently disclosed. This -- as you know,
8 our position with respect to the donor list for
9 MRRI we believe is privileged. This document
10 should not have been released, and we'd like to --
11 or we intend to invoke the clawback provision till
12 we get that settled. I would ask that we not
13 include 164 in the record.
14 MR. TONER: I have no problem w th not
15 making it public while you work through the
16 clawback procedures.
17 MR. ELLSWORTH: Okay. I think that's --
18 I think that's fine.
19 MR. TONER: And if there are additional
20 steps that need to be taken to preserve it while we
21 do that, just let me know and I'll be happy to work
22 that out w th you.
23 Okay. Thank you.
24 MR. KNAPP: Yeah. I think, Kevin, all
25 we're saying is -- and we did this before with

1 CERTIFICATE OF NOTARY PUBLIC

2

3 I certify that this transcript is a
4 complete, true, and correct record of the testimony
5 of JEFF TIMMER held in this case on August 29,
6 2018.

7 I also certify that prior to taking this
8 deposition the deponent was duly sworn to tell the
9 truth.

10 I also certify that I am not a relative
11 or employee of or an attorney for a party; or a
12 relative or employee of an attorney for a party; or
13 financially interested in the action.

14

15 September 6, 2018

16

17

18

19

Suzanne Duda (CSR-3199)

20

Registered Professional Reporter

Certified Realtime Reporter

21

Notary Public, Clinton County, Michigan

Acting in the County of Ingham

22

My commission expires: May 6, 2019

23

24

25

A	105:22	adoption	232:12	217:24 265:1	257:22
a.m 79:18 87:3	ACKER 80:2	158:19	267:13	anymore 116:5	applies 89:24
88:19,20	acronym 88:3	adults 89:21	Amash 138:25	anyway 257:25	apply 186:11
135:22,23	243:5	advantage	139:1,9	Apol 91:16,18	186:15
177:3 200:9	act 92:10 100:8	162:1	142:6,16	159:12	204:22 218:8
ability 182:5	107:5 116:13	advice 197:8	143:13,16,20	165:24	259:22
194:11,20	241:18	223:9 249:8	194:6 195:23	171:19	applying
266:3	260:11	256:25	242:9 244:1	172:10,13,24	127:20
able 113:11	266:19	advise 261:22	244:21 246:1	186:11,15	201:23
117:2 134:18	acting 248:5	affect 183:24	264:13	187:10 190:2	appointed
180:22	271:21	African-Ame...	Amash's 194:2	193:13	203:3
181:25	action 135:2	265:13,17,18	196:3,11	194:11	appreciably
225:17	246:3 271:13	265:24 266:4	ambiguous	198:17	267:22
231:21	activity 131:9	afternoon	238:16	201:23	approach
236:18	actual 90:23	231:8 263:23	amount 89:13	208:16	90:23 91:11
239:22	145:15	265:22	89:25 136:2	212:22 218:8	approval
248:11	181:22	afterward 99:1	analysis 136:2	222:20 229:1	254:15
absolute	add 114:14	age 106:24	136:10 147:7	234:14,19	approved
204:21	195:19	213:20 243:5	149:11,12,15	241:19	117:19
Absolutely	added 114:11	265:24 266:4	151:8 157:6	247:16 257:5	April 119:12,25
88:17 135:10	181:4,12	ago 121:18	157:22	257:17 258:6	120:3 177:8
acceptable	222:24 229:2	131:21 142:2	194:10 201:3	258:24	180:13
267:16	241:18	185:6 196:17	201:7	259:25	181:16
accepted	adding 191:15	214:7 255:14	analyze 193:1	261:22	area 89:18
261:13	204:15	256:4 258:11	analyzed	266:20	90:1,6,7
accepting	244:24 245:1	agree 115:17	157:13	apparently	104:5 105:9
194:17	245:4	152:8 159:20	and/or 197:9	242:23	105:11
access 114:4	additional	159:22,23	Andy 107:25	appear 87:23	130:24 132:3
178:20 180:2	87:15 137:15	174:23	133:7,9,10	118:6 162:20	156:20 169:9
231:14	156:4 257:24	175:15	230:20	187:16 198:7	171:7 187:11
245:23	268:5 269:19	176:15 201:2	answer 109:15	266:11	191:14
accommodate	address 224:3	201:7 217:12	111:10	appearance	204:23 207:6
208:10 217:7	268:21	217:13,14,20	121:19	145:12	220:6 226:16
220:20	addresses	242:17	146:20	APPEARANCES	226:20 227:7
236:18	137:16,18	252:22	152:12 180:6	79:19 80:1	229:19 239:5
239:22,25	146:2 225:21	agreed 94:14	183:17 191:1	appearing	241:5 243:6
accommodat...	225:22	agreeing 270:5	194:21	79:24 80:6	250:20
221:8	252:13,18,19	agreement	196:22	80:15 210:17	255:16,17
accomplish	253:13	178:22 270:3	199:25 202:4	appears 129:10	areas 105:7
183:1 233:22	adds 206:15	Ah 112:24	205:6 213:7	137:16	130:24
account 91:6	adhere 107:4	246:22	218:7 232:14	160:17 163:1	227:14
100:7 101:22	222:20	ahead 105:2	232:25	163:16 168:7	arguments
107:3	adherence	173:5 232:15	247:23 248:1	175:1 180:17	142:4,14
accounts 176:4	95:15 183:14	249:21 268:6	answered	190:11	arrived 237:2
238:22	183:15 212:5	Alan 144:4,5,11	179:5 258:11	192:12	articles 87:19
accumulating	261:22	145:1 179:17	answering	195:12,15	87:23 117:20
156:4	266:19	267:7	192:5 212:14	199:10 206:3	117:25
accurate	adhering 194:8	alike 179:9	answers 256:3	213:7 221:3	150:10 215:9
177:21	194:11	Allegan 225:12	256:4	223:9 226:8	aside 253:12
178:18 192:2	adjacent	Allen 130:3,4,4	anticipate	232:16	asked 157:12
245:22	265:18	263:5,17	189:23	236:17	171:21
256:10	adjustment	allocated 119:8	233:12	239:15 242:8	172:10,12
accurately	206:11	120:12,15	anticipated	245:12 247:3	179:6 184:20
124:10	adjustments	allow 259:9	152:4 154:3	252:15,17,23	186:4,17,18
148:10,12	90:4 184:16	alt 127:11,13	192:6	253:2,20	186:19 187:3
accusing	206:18 210:6	232:11	anticipates	254:13	192:6 201:22
117:23	adopted 88:24	alterations	207:10	apples 89:8	206:2 212:16
achieve 92:11	145:4 148:15	92:19 191:13	anticipating	applicable	221:4 230:23
183:14 212:5	149:25	alternate	212:15	157:20	231:8 245:8
237:2	153:15	208:15	anticipation	application	258:10
achieves	162:18	224:13	154:7 212:14	229:1 257:21	263:23
115:21	240:23 241:4	alternative	Anuzis 108:22	266:20	asking 169:8
achieving	250:4,11	127:14,24	anybody	applied 91:9	172:19,21
102:17	267:18,19	134:15,25	109:21	96:12 127:23	175:13

185:25	83:4 84:22	120:23 125:7	195:9 246:2	162:8 172:1	Bob's 201:3
226:11	85:7,24	138:24	262:9	175:16,18	Bobby 108:4
230:20	164:24 165:1	139:16,20	begins 92:2	176:21	131:19
246:20	175:15	152:17	95:25 192:7	181:25 213:5	Bolger 107:15
254:14	197:20 198:2	177:14	193:4,24	213:15 214:4	book 266:14,18
aspect 95:2	198:3 244:8	182:24 206:8	195:14	beyond 156:19	bottom 101:6
97:3	245:11,13	208:17 213:5	behalf 79:24	174:14	102:2 154:11
aspects 153:18	attempt 152:3	213:14 231:2	80:6,15	217:11,17	156:2 171:13
ass 239:19	260:21	234:23 248:6	140:15 141:8	218:6 219:4	171:17 175:3
assemble	attempts	248:20	182:19	222:4	181:4 185:4
157:18	143:13,15	250:13	behavior 113:7	big 152:20	190:8,10
assembled	attend 256:18	267:21	161:14,14	203:12	193:16
184:6 198:11	attended	bad 185:20	193:2 235:15	bigger 89:22	196:20 206:7
198:13	108:17	209:12,15	beholder	bill 79:5 118:10	211:21 221:7
245:15	attendees	226:14	218:14	119:17 124:1	221:25
assessment	185:10	BAKER 79:20	believe 87:24	128:16 133:2	225:25 231:6
139:6	attending	balance 104:13	89:23,23	133:3,22	239:17
assignment	262:16	206:16	104:10 109:4	134:1 137:9	244:14
122:23	attention 94:10	ball 155:10,23	122:18	147:15 148:7	boundaries
association	190:25	234:11	123:13	148:11,20	210:3 230:6
215:18	210:14	bar 173:12	127:11	149:22	231:17 235:8
assume 103:7	attorney 91:21	174:5,16	128:23	214:14	237:25
119:3 124:9	144:5 247:24	Barack 246:14	142:13 147:4	215:18	266:11
125:16	248:5 271:11	base 105:13	148:2,7	bills 149:23	bounds 141:6
127:13	271:12	154:1 244:22	152:12 158:8	153:10,12,14	Brandell
128:17	attorneys	based 112:5	159:25	255:3	107:25
134:20	93:23 122:13	113:4 144:10	165:20	bipartisan	182:18
157:25 161:6	185:12	157:14	169:24	115:16	190:13
173:9 183:21	247:22,25	159:23 170:2	170:20	Birmingham	192:11
189:17	251:7	170:5 194:5	173:13	191:23	210:19
193:17	attract 116:17	196:10	178:16 187:9	bit 110:7 160:8	219:16
200:13	Auburn 130:1,7	201:11 214:5	191:12	206:15 225:3	BRDAK 79:3
208:25	130:9 228:16	220:10	193:14	bitched 222:6	break 88:19,20
240:21 249:2	August 79:17	249:12	202:15,24	BL 151:2	135:9,9,22,23
252:19	87:1 148:4	255:17	204:21	black 106:24	135:24 137:3
assure 88:10	148:19,25	baseline	206:23	107:7,9	137:6 148:11
194:19	149:4,20	130:20	207:15 209:3	149:22 255:2	165:21
attached 86:23	150:2,2,20	204:17 245:6	216:5 218:4	255:7	176:24 177:3
98:13 138:12	151:5 252:13	245:9	226:13,17	block 221:4	177:4 194:14
168:5 171:24	253:21	basic 145:11	263:9 264:9	blocks 180:25	205:17,21,25
173:9 174:11	254:14 271:5	259:6	269:9	Bloomfield	241:18
180:16	author 151:20	Basically 89:7	bell 198:3	104:22 169:4	243:13,18,19
182:14	automatically	199:7	Bellgowan	199:14	255:25 256:1
183:10 185:1	198:14	basics 171:23	177:17	206:14,21	breakdown
209:11	245:18	basis 93:18,19	beneath	Bloomfields	235:11
214:12 225:3	available 94:18	Bates 154:10	252:18	191:22	248:12,22
227:18 235:7	112:9 113:6	160:9 193:16	Benishek	blue 163:3	249:1
242:24 243:2	135:8 178:4	217:4 232:18	242:13	228:1	breaking 96:15
248:15,17	178:12,13	Bath 209:15	Benson 136:2,5	blurry 129:10	259:13
251:12	avoid 234:15	Baumann	247:9	Bob 81:12	260:20
attachment	234:24	263:5,19	Benson's	128:23 149:8	breaks 98:17
82:4,14	241:22	BCC 224:9	136:14	151:2 159:4	137:9 165:25
83:15,18	avoided 204:16	BCC'd 232:8	Berra 152:18	168:20	166:6 172:20
84:6,9,13,16	avoiding	BCC's 224:7	best 113:6	173:24 177:8	172:20,22,23
85:4,13	266:21	Bean 164:3,4	166:6 181:8	182:11	186:13,25
86:12 121:23	awakened	263:3,7	194:11 196:4	198:25 200:8	187:3,4,5
168:21	223:15	bearing 125:21	196:5,12	200:13	204:13,15
223:23	aware 176:12	beef 195:10	207:11 243:3	201:20 202:9	222:18,24
232:11	234:5 254:20	beefed 208:19	246:17 258:6	217:6 219:16	223:1,7,17
240:13	254:21	began 93:22	259:11	221:25 228:9	234:20,21
242:25 243:1		233:19,24	Betsy 142:20	235:4,23	240:19
attachments	B	262:4	better 89:7	258:19	259:15
81:24 82:7	back 88:7 89:3	beginning	113:9 131:23	264:10	Brewer 80:2
82:16,19	97:4 104:2	154:2 192:11	155:24 160:8	268:10	158:22

197:15 264:24,25 Brewer's 121:12 Brian 93:22 233:19 briefcase 255:24 bring 88:14 225:15 broad 261:19 broke 201:4 broken 204:5 brought 103:25 BS 159:12 bulk 148:13 168:21 bullet 102:22 bureau 158:1 178:3,5,7 213:22 Bush 212:11 231:2 business 154:1 268:18 businesses 225:23 button 242:18	246:10 calls 150:25 Camie 133:22 147:11 campaign 108:15 campaigning 115:7 campaigns 201:17 Can-a-dee 144:2 Canady 144:3,4 144:5 147:7 179:17 267:7 267:9,10 Canady-Cony... 144:24 Candice 101:14 127:8 167:9 226:13 236:20 238:14 240:1 candidate 139:7,8 180:24 204:20 229:6 candidates 116:9,18 117:2,4 194:4 201:16 202:15 216:21,22,23 216:24 246:12 capabilities 95:3 capability 174:14 capacity 79:10 258:17 268:12 capitalized 195:16 Capitol 88:6 caps 160:1,3 captures 168:21 Carney 133:23 133:24 147:12,13,14 147:15 Carpenter 216:8,11 carried 199:17 carrying 227:2 case 79:9 88:8 92:21 98:13 100:25 101:2 102:25 106:4 127:25 172:18 179:24 209:4 218:15 271:5	categories 213:24 caucus 149:22 255:2,7 Cause 111:8,9 CD 124:23,25 125:13 175:16,18 176:21 230:23 census 94:24 114:18 121:3 121:17 122:11,23 165:2 171:11 171:11 173:22 180:25 181:9 181:18,24 182:1 212:24 213:9,22 center 219:15 229:11 central 208:9 208:13 CEO 202:13 certain 93:16 116:14 118:15 130:10 167:2 170:23 193:18 194:19 197:7 213:8 229:23 236:21 certainly 106:8 109:16 119:21 123:22 207:3 215:16,17 228:24 248:2 certainty 163:5 CERTIFICATE 271:1 Certified 271:20 certify 271:3,7 271:10 chain 81:22,24 82:4,10,16,19 82:21,24 83:7,10,12,15 83:18,21,24 84:4,9,13,19 85:4,7,10,16 85:19,24 86:4,9,12,20 219:3,8 236:22 255:18 chair 108:15,23 chairman 108:7 143:5 challenge	109:17 chamber 109:6 155:17,19 163:21 202:19 258:14,14,18 258:21 268:14,21,24 chance 103:7 182:24 241:15 chances 214:3 change 125:15 209:25 228:13,14 changed 222:11 250:20,22 265:21 changes 124:22 125:1 125:12,14,23 126:2,13 129:1,2,4 136:24 138:24 145:7 145:18 149:24,25 154:17 155:2 155:3,7 183:24 191:17 193:12,15 195:22 212:8 240:7 250:17 changing 154:16 characterizes 204:23 chart 162:10 211:22 248:17 charts 142:3,14 173:11 184:20 chatter 117:22 Chem 225:18 Chen 91:3,17 95:25 96:10 97:19 196:1 196:2 Chen's 90:22 91:11,22 97:12,16 chief 130:5 131:11,12 133:1,10 144:6 263:10 267:10 chose 261:2 Christian 225:19 Chrysler 220:4 220:16	circles 163:3 circulated 242:2 circumstances 95:9 120:10 180:3 234:17 cite 91:14 185:16 cited 105:19 cities 96:2,14 97:6,16,23,25 98:6 194:14 236:25 259:13,20 260:19 citizens 113:7 115:17,20 116:8 city 89:24 126:2,9,10,17 130:12 145:2 206:15 225:14 230:6 259:19 265:11 claims 98:5 222:5 Clair 150:15 clarified 257:23 clarify 152:3 203:10,11 227:13 256:15 Clarke 107:4 137:15 146:1 266:22 classified 227:8 clause 99:13 clawback 269:11,16 clear 205:13 209:18 261:20 clearly 208:6 client 153:25 154:1 155:1 Clinton 95:10 95:14 112:7 209:13,25 271:21 close 105:14 183:14 188:11 190:25 212:5 237:17 238:25 255:19 closed 270:12 closely 89:3 closer 135:2 co-del 168:22 Codes 253:9	coding 229:17 color 229:17 column 252:17 252:24 columns 167:18 Combat 113:25 114:8,11 157:17,19,23 158:2 177:12 177:18 180:2 180:14 183:6 combined 181:11,12 come 90:9 93:9 93:13 116:3 156:9 189:15 248:21 253:11 comes 227:20 259:15 coming 207:10 212:18 commencing 79:18 comment 186:2 comments 187:7 Commerce 109:6 155:17 155:19 258:14,15 268:14,21,25 commission 81:19 163:1 163:2 207:24 271:22 Committee 108:10,16,18 108:24 109:1 Committeem... 108:23 common 105:15 111:8 111:9 118:12 communicate 108:8,12 109:3,10 140:14 159:16 communicated 109:8 243:24 249:13 268:13,16 communicati... 126:25 136:7 141:16 268:11 communicati... 132:20 133:17 268:16 communicati...
--	---	---	--	--	---

108:4 110:4	composition	125:21	200:4,20	102:15,18	211:20
111:1,4,7	199:23	127:11,24	203:22,24	105:16,20	contract 152:5
143:25	204:17	189:22	204:6 211:17	106:16	contribute
214:14 215:4	206:20	228:21	211:25	152:20	247:12
253:22	207:19	236:10,24	212:20	considered	contributor
communities	comprising	238:23	218:13 220:1	98:22 99:16	109:20
102:16	171:8	240:22	224:17	104:8 109:22	202:14
105:21,25	conceivable	241:10 246:5	225:10	207:22	contrived
106:2 137:3	141:25	248:25 252:3	226:12	considering	229:5
265:20	concentrated	265:19 266:2	230:22	180:25 187:2	control 152:22
community	90:8	267:4	232:16 235:8	consternation	conversation
106:7	concentration	configurations	236:11 243:9	182:6	93:12 131:9
compact	184:7 266:7	165:12,18	243:23 246:3	constituencies	conversations
237:23	concentrations	208:15	247:7,16	90:3 102:16	108:21
compactness	105:8	configure	257:15 258:2	105:21	143:16
90:12,13	concern 102:11	201:5 236:19	258:4,5	constituency	268:24 269:1
91:18 96:1,2	107:1 117:13	265:12 267:7	259:1,8,17,23	88:23 89:5	conversed
96:11 259:17	132:8 137:20	configured	260:11,15,17	138:2,4	128:23
259:21	146:3 189:3	100:22	261:1,21	constituent	conveying
companies	209:4 244:23	266:10	264:9 265:4	217:8	263:16
226:25 238:8	245:3 250:3	configuring	265:9,12	constituents	Conyers 107:4
239:9	251:4 264:5	92:3 211:16	267:2	117:19	137:15 146:1
company 81:10	concerned	confined	congressman	Constitution	191:15
137:23 195:4	130:25	127:25	104:7,16	222:14	206:16
220:17	132:10	confirm 230:23	105:12 106:8	consultant	266:22
company's	183:19,21,23	238:13	133:4,10	131:10 150:7	cool 226:1,4,5
195:4	184:2,5	conflict 189:5	139:1 140:9	consultants	coordinate
compare 99:17	188:25 191:2	Congress 103:2	143:19 159:8	109:24 110:1	157:6
245:21	244:21 264:2	103:5 111:15	159:10,16	195:1	copied 224:5
compared	264:13	111:21,24	170:4 182:20	consulted	copies 88:15
211:23	concerning	194:20 209:6	191:24	127:18	118:3
comparing	128:3 129:1	congressional	192:19,23	consulting	copy 185:18,21
152:21	133:18	89:10,12	200:15	118:8 120:23	185:24
comparison	139:10 140:9	95:1,23	220:15 226:3	123:25 148:5	187:17 224:7
89:25 247:7	140:24 154:3	97:20,22	244:1 245:2	188:2	copying 224:6
247:9,16,18	225:5 236:10	98:5,9,20,25	245:4	contact 241:22	core 99:15,18
compensation	concerns 98:21	99:12 100:4	congressmen	contain 197:18	100:12,16
152:4	99:10 101:10	100:13 101:5	211:18 264:4	contained	101:23
competitive	102:5 103:15	102:1 106:23	congressper...	121:22 138:6	102:16
112:17,22	103:24 117:9	107:23 110:8	132:13	236:24	105:20
113:2 126:21	139:1 170:6	111:13 112:9	Congresswo...	CONTENTS	106:20 107:2
compiled 178:3	170:7,8,9,13	112:16	131:10	81:1	132:7 138:2
complained	236:3	122:25	140:15	context 170:23	138:4
264:17	concert 188:12	123:11	182:19	179:11 192:4	corner 237:11
complaint	conclude 96:7	124:24 126:7	connection	194:5 195:14	239:20
98:13	96:15	126:8 127:17	110:8 121:16	207:9 208:23	corporate
complaints	concluded	128:6,12	254:10	209:10 214:6	220:12
264:21,22,23	88:20 135:23	129:1 134:16	261:12	232:17	226:20
267:2,6	136:14 177:4	139:17,23	cons 198:17	247:11	Corporation
complete	243:19 256:1	145:2,8,12	conservative	249:12	118:4 119:7
168:17	concluding	147:17	109:7	contiguous	120:6 152:6
256:10 271:4	99:3	153:13,15	consider 90:23	103:18	152:13 153:1
completed	conclusion	160:13,17,20	112:17,22	Contingencies	153:6,23
171:10	98:16 115:9	162:15 165:1	239:4	156:15	156:22 157:9
completely	153:2,7	166:5,19	consideration	contingency	157:17 158:5
96:16,25	170:15	167:4,5,7	100:18,21	156:19,21	194:23
97:12 128:11	189:20	168:6,23	101:9 103:1	continue	216:19
169:5,12,25	246:24 251:1	171:5,9,23	103:15	169:10 220:3	217:15,25
170:3,16,22	conclusions	173:18,21	136:19 205:9	continued	220:16 224:3
compliance	94:8	175:21 179:8	260:3 267:1	79:14 80:1	232:5 247:21
104:1 193:12	confidential	182:21 188:6	considerations	81:3 82:1	248:9
225:16	255:5 256:22	188:13,15	99:8 100:6	83:1 84:1	corporations
comply 92:9,10	270:2,8	190:13 198:9	100:11,15	85:1 86:1	239:6
186:7	configuration	199:18 200:3	101:21	87:9 211:16	correct 92:23

128:18 134:3	131:25 137:6	172:11,13	242:11	181:15	217:10,16
146:6 152:23	163:1,2,2	183:14	245:25	211:14,15	218:5,13,22
161:5,21	165:21,25	186:12,15	251:20 263:5	224:23	deliver 131:18
179:25 180:9	166:6 172:19	187:10 190:2	263:19	dated 118:7	delivered
181:14 182:1	186:12 187:6	198:17	Daniel 244:11	119:12,20	128:19,21
188:7 190:22	193:5,9	201:23	DANIELS 79:20	120:17 148:4	134:18
200:16	194:15 201:4	208:16	data 94:17,25	148:18	delivery 151:1
203:16	204:5,5	212:22 218:8	94:25 110:16	175:16	Dem 176:1
204:25	207:23,24	218:9 222:21	113:6,19,24	180:13	Democrat
209:23 210:1	208:5 209:13	229:2 234:14	113:25 114:7	181:17 182:2	104:4 110:13
210:4 211:12	209:25 212:6	234:19	114:8,11	dates 168:8,12	110:19
215:8 217:21	219:20	241:19 257:5	122:23 133:6	Dave 99:1	116:11,12
217:22 219:2	222:17,24	257:21 258:7	133:14,15,22	167:9 183:4	117:4 130:10
221:6 222:9	223:1,17	258:23,24,25	134:4,6,7,8,9	191:10	136:7 144:7
226:9 228:11	225:12 234:1	259:8,22,24	134:16,18	207:11 217:7	169:22
228:25 229:1	234:8,20	260:25	135:5 157:7	David 266:14	180:24
231:16,19	241:18	261:22	157:13,14,17	day 100:2	184:15
235:5,13,21	259:13,15	266:20	157:18,19,23	124:11 125:5	200:21 227:7
235:22	260:20	CRR 79:15	158:2 160:25	130:13	253:5
236:16,17	271:21,21	crystal 155:10	161:15 165:2	133:17	democratic
246:15 247:5	county-wide	155:23	171:10,12	134:23 135:1	93:7 95:11
250:25	207:23	CSR-3199	173:22	136:20	176:14
252:21 253:5	couple 150:25	79:15 271:19	177:13,18,21	139:25	195:21
256:9 257:7	173:23	CTIA 215:17	177:22,24	140:20	199:18 234:9
258:15 266:1	213:24 244:8	216:9	180:2,14,19	145:20 147:6	241:5 257:8
271:4	255:13,23	curious 193:25	181:11,12,19	147:21	264:1 267:3
corrected	268:7	231:6	181:22,22,24	212:19,19	267:3,10
146:22 256:5	coupled 186:24	current 138:6	181:25 182:1	222:25	Democrats
corrections	course 97:7	161:19,20	183:6,6,9,9	days 149:17,20	93:4,25
219:5	115:24	211:23	183:12,13	173:23 252:1	94:13 110:4
correctly 98:18	152:25	currently	184:10,11,21	DC 166:19,22	110:9,13
126:4 127:21	court 79:1 97:5	142:20	185:2 188:1	167:3 168:15	114:5 123:7
correspond	97:8 128:9	216:17	188:3 189:21	deal 95:18	144:10
174:18	128:14 149:5	curved 227:21	190:3 196:20	107:11 108:2	158:24
corresponde...	151:7,9	customers	196:23	dealing 109:21	161:13,16
97:4,7	206:2 222:18	118:24	198:11 202:3	227:25	167:12
234:22 238:3	223:1,7	cut 95:18	204:22 205:8	deals 194:17	170:25
Cotton 250:6	228:3 270:3	194:18	205:14	dealt 134:21	178:14 179:9
255:17,22	covered 180:19	222:13,16	211:22	decade 89:4	179:12
counsel 191:9	257:17	cycles 157:1	212:11,25	99:24 154:19	183:25
191:11	covering	265:7	213:8,9,17,18	155:2	184:17
counsel's	239:13	<hr/>	213:19,20,22	decade-long	194:19
191:9	245:14	D	213:25 221:5	154:22	199:18 234:3
counsels	253:21	D 87:4 161:25	230:23,24,25	December	234:4,6
122:14	covers 122:5	D+32 161:12	231:9,19	159:4	244:24
count 97:21	123:19	daily 88:6	233:2 235:19	decision	257:11
116:5	cram 175:25	Dale 200:18	243:3,10	123:10	266:25
counted 162:6	create 121:16	Daley 266:14	245:6,22	decision-ma...	demographic
172:23	created 121:5	Daly 103:21	248:11,17	92:16	154:17 155:7
counties 99:20	121:19	107:25	258:1,7	deeply 176:9	157:6,13,14
136:18 137:9	Creating	124:23 125:2	database 94:15	Defendant	213:9,18,20
176:1 186:24	155:10	125:5,6,18	114:4 157:20	79:12 80:15	213:24
194:9,12	criteria 90:13	130:17 132:2	157:24	defer 251:7	235:19
204:14 208:3	91:6,7,16,16	139:16 140:8	177:10,11,12	define 106:2	demographics
208:9,14	91:17,18,19	174:24 175:2	178:2,25	definitely	212:24
237:23 266:9	91:25 92:9	175:3,24	180:2,7,22	260:25	demonstration
country 213:23	95:16 96:11	176:6,10	181:2,13	déjà 152:19	98:12
county 81:19	96:12,25	189:6 197:9	198:12	delegation	Dems 233:25
81:20 92:3	97:4,11	199:1,6,7	231:12,18	153:13	depend 266:3
96:15 97:6	99:14 102:14	206:11,14	databases	161:21	depends 139:7
98:17 103:23	106:4 127:20	240:5,10	181:11	162:14,16	204:19
104:3 105:9	127:23	241:13,20	date 126:1	166:19 167:5	deponent
128:2 130:12	165:24,25	Daly's 206:18	156:5 173:23	167:7 168:23	271:8
130:12	171:19	Dan 93:22	175:18	169:2 179:8	deposition

79:14 81:9	137:10	258:13	discussed	163:2 165:15	155:11
81:11,14,16	246:17	difference	93:19 165:5	165:15,18	160:14,23,25
81:18,21,23	describes	104:23	165:7 191:17	168:6 169:10	161:1,5,17
82:3,6,9,11	91:12,14	181:15	196:17	171:14,23,25	162:2,3
82:13,15,18	95:25 118:8	203:12	210:22 211:3	172:8,14	167:15
82:20,23	description	differences	237:16 242:4	183:3,24	170:25 171:5
83:3,6,9,11	96:9 129:5,9	91:10 239:2	242:10 261:9	186:2 187:8	171:7,9
83:14,17,20	147:21	259:5,7	discusses	189:1,8	173:2,18,19
83:23 84:3,5	151:25	different 91:7	219:18	190:1 192:14	173:21
84:8,10,12,15	164:15	91:24,24	discussing	192:20,25	175:21 176:2
84:18,21,24	desire 115:16	96:17,23,25	145:17 215:1	197:12,18	184:1,8,14
85:3,6,9,12	165:21	115:11,12	241:10	199:18,19	186:21 188:6
85:15,18,21	169:15 189:7	131:4 153:19	discussion	200:14,15	194:19 198:9
85:23 86:3,6	226:19	165:16	90:19 93:2	207:4 208:2	199:23,24
86:8,11,14,16	desired 169:18	173:17	95:7,22	208:7 211:25	200:3,5,20
86:19,22	desires 222:23	187:18	98:19 100:7	213:13,15	201:22
118:1 121:25	detail 173:17	196:22	105:14	217:8 220:12	203:19 208:3
151:15 159:1	174:3 237:6	237:11,14	197:16	220:17 222:5	210:14
160:5 162:22	259:6	239:16 259:2	discussions	222:10,11,13	211:17,23
163:11	detailed 118:5	267:22	93:9 122:22	222:16	218:17
164:18 168:1	118:16,17	268:18	139:22	225:10,13	225:15 238:3
173:3 174:21	120:2 124:6	difficult 89:8	146:23 147:2	226:12,21	240:7 245:14
177:5 180:10	148:24	201:16	156:11	227:11,19	250:14,20,21
182:8 184:22	179:23 237:9	diminish	198:16 227:9	229:9,18,20	250:23 253:1
187:14 190:4	details 139:15	242:12	256:21	230:22 231:1	254:22 259:9
196:14	Detroit 89:18	Dingell 106:21	displeasing	232:18,20	259:10,18
198:20	89:24 90:1,6	direct 95:20	238:4	233:1,5,6,12	260:4,11,12
201:24	90:7 98:6,8	107:16,19	disrupt 192:16	233:14,14	265:3,6,12,20
205:23 211:9	100:20	263:13	disrupting	234:11,16	265:23 266:3
214:9 217:1	130:11 145:2	directed	264:15	235:8,13,15	266:12 267:5
220:23	149:11,18,18	155:24	dissatisfaction	235:25	267:8,14
221:19	189:12	157:15	242:9	236:11 237:3	division 79:2
223:20	191:14	214:22	district 79:1,1	238:1,23	122:24 195:5
224:18 226:6	254:23	direction 125:1	81:19 88:24	241:6,11	document
227:4 228:7	259:18	125:3,3	89:25 90:9	243:23	119:19
230:14 232:1	265:12,17,21	222:20	96:1 98:20	244:25 245:2	151:21 160:8
233:16 235:1	developed	directly 93:11	98:25 99:12	245:5 246:5	195:9 198:6
236:6 239:10	264:17	107:11 127:2	99:15,17,18	246:7,17,18	198:23 200:7
240:8 241:7	deviation	127:20	99:20,21,22	250:8,9,24	233:9 253:3
241:24	259:10	134:21 136:8	100:1,5,12,14	251:13,18,23	269:9 270:7
242:19	deviations	172:21	100:17,20,22	252:2,3,25,25	documents
243:20 247:1	257:4,13,16	188:15	100:22 101:5	259:19 265:4	87:15 121:16
249:3,19	devised 222:19	189:11 199:6	101:10,23	265:5 266:17	121:21 154:7
251:8 252:10	DeVos 142:20	212:14	102:1 103:8	266:23	162:25 215:2
253:17 257:4	244:18	disagree 196:8	103:18,25	districting	236:13 270:6
270:1 271:8	DeVoses	196:10	104:9,12,13	151:8	doing 120:25
depositions	142:12,18	disagreed	104:17,24	districts 89:4	124:11,14
263:7	254:11	217:23	105:14,18,25	89:13,16,16	137:13 138:9
deputy 191:11	devoted 148:14	discarded	106:5,9,12,19	90:1,5,5,12	145:9 149:13
263:10	151:11 215:7	142:2	106:21 107:6	92:3,7,25	151:4 166:12
derivative	Dewitt 136:24	discerning	115:5,6,7,8	93:3,5 95:7	202:1 216:20
258:8	209:15	268:1	115:14,18	100:23	218:1,7
describe 87:20	DeWitte 107:25	disclosed	116:20	106:23,25	231:10
88:5 92:6	132:25 133:1	269:7	124:24 126:7	107:3 110:8	dollar 255:20
95:18 106:6	diagram	discretion	126:8,18,19	112:16,21	255:20
109:13	229:11	159:23,24	128:9 130:20	114:15	Donald 112:7
118:23 121:2	DIANA 79:5	260:14	131:22 132:4	116:16 117:3	donations
122:8 126:15	DICK 79:6	discuss 92:24	132:4,7,10,14	117:4 123:12	216:1
146:1 152:2	Dickinson 80:7	100:4,13	133:18 138:6	125:14,19,21	DONNA 79:4
152:3	80:11 146:9	101:3,6	138:7,7	125:24	donor 105:13
described 95:9	146:24	124:22	139:2,17,23	128:13 129:1	109:13,20,22
95:14 121:17	147:23 185:6	163:24	145:2,8	145:12	202:15 269:8
124:10	185:7 248:9	171:23	146:5 147:17	149:18 151:9	donors 105:11
130:17	256:18 257:1	210:25	160:17,20	154:18	109:10 115:8

doubled-side 88:10	driven 125:14	elected 99:22	149:10	243:2 244:6	Engler 203:4
doubt 231:4	driving 266:16	107:11	215:24 248:2	244:14 245:7	ensuing 154:18
Dr 90:22 91:3	drop 89:18	109:18 110:4	251:11,16	246:16,23	155:2
91:22 95:25	Duda 79:15	110:6,9,13	256:14,17	247:20	ensure 193:7
96:10 97:16	271:19	114:24	268:2 269:5	248:14,16	217:10,16
196:2	duly 271:8	116:13 123:5	269:17	249:5,24	218:11,22,24
draft 87:12	DURHAL 79:4	132:9,11	270:10	250:2,11	ensured 172:17
110:12	DW 146:9,12	133:3 189:2	email 81:15,22	251:15,21,22	entered 232:21
122:17	146:13	194:18 203:1	81:24 82:4,7	253:20,24	entire 95:18
131:18 137:6	147:21	207:23	82:10,12,14	254:13,19	207:7
137:13	dynamic 176:8	222:11	82:16,19,21	255:18,19	entries 118:17
164:24 168:5	Dynamics	246:14	82:24 83:4,7	268:17	124:20
212:4,12	220:3,16	election 94:11	83:10,12,15	emailed 232:4	136:20
214:2 247:7	E	94:14,16,22	83:18,21,24	emails 103:19	140:18
drafted 114:20	E 79:4,4 87:4	94:25 111:13	84:4,6,9,11	103:20	143:25
drafting 156:14	earlier 102:13	111:18,21,24	84:13,16,19	107:24	150:25
258:1	104:15 144:9	112:23,24	84:22,25	121:22,23	entry 125:12
drafts 121:5,9	147:15	113:6,19,24	85:4,7,10,13	132:2 138:13	125:20
draw 107:5	242:10 255:1	114:7,18	85:16,19,22	140:17 168:4	126:15
110:24 118:9	266:6	115:15	85:24 86:4,7	174:24 175:2	128:25
250:7 261:21	early 108:14,19	132:12 134:6	86:9,12,15,20	184:24	130:13
drawer 129:7	227:9 257:3	134:8,9	128:24	187:18 190:7	131:14
143:7 258:12	easier 175:25	155:11,12,12	141:17,18,18	198:24 206:3	132:19,24
260:14	180:7 220:14	157:20	159:4,7,19	206:5 207:8	135:25
drawers 90:24	easiest 190:8	160:25	160:4 164:20	211:11,13,13	139:18 140:8
91:9 92:2,16	easily 250:15	167:14,23	164:21 165:4	214:11 221:1	141:11 142:3
92:17 94:5	East 213:3	171:14,17	165:14,19	232:4 235:3	145:7 148:1
94:10,16	East 213:3	175:6 177:10	166:18	236:8 239:12	equal 259:9
96:12,20	eastern 79:1	177:12,14,23	168:14,20	240:24 242:5	equality 237:3
127:19	227:19	179:11	173:10	242:22 247:3	equally 92:14
166:17	Ed 150:6,11	180:19	174:11 175:4	268:20,21	92:15
185:12	edge 227:20	181:25 184:6	175:7,14,24	employ 186:6	Eric 178:3,5
186:11 188:4	Edgerton 164:3	184:11 185:1	177:8 180:4	employed	231:12
188:8 190:19	164:4	198:7,11,18	180:13,14	261:15	errors 141:10
250:7 256:19	editing 145:14	202:3 204:20	181:16,17,20	employee	141:14
256:24	editorials	204:22	182:2,11,15	258:17	especially
drawing 92:6	117:20	205:13	182:17,18	271:11,12	237:23 266:8
95:1 101:9	264:16	211:22	185:4,23	enact 152:23	essentially
107:10 109:8	educated 112:3	212:11,18	186:22,22	246:6	88:6 96:3
113:5 127:17	200:1 243:6	218:20	189:11	enacted 90:19	103:1 104:13
128:13	education	230:21,24	190:11 192:2	95:23 97:10	163:14 238:7
134:23 148:8	142:20	231:11	192:7,10	97:17 126:17	establish
148:21,22	213:25 254:6	235:20 245:6	193:4,23	153:4,10,15	215:25
156:18	effect 199:21	245:13,22	195:8,13	187:5 197:14	estimate 89:3
201:22	199:22 212:9	246:10	196:25	197:17	181:3
218:16	effects 186:21	248:17	197:20	203:21	estimated
232:18 233:6	effort 90:2	251:23 258:1	198:16 200:8	225:10,23	121:3 181:21
233:22 252:2	97:15 121:11	258:7	200:11 202:8	228:3 229:21	181:22
258:3	125:6 154:6	elections 117:5	203:5,10,11	230:4 234:7	estimates 89:6
drawn 103:9	186:6 241:20	157:25 173:1	207:7,13	236:24	181:9
115:4,18	efforts 118:9	180:19	210:1,5,17	237:13,18	evaluated
116:16 172:8	130:18	184:12	211:8 213:2	238:23	94:22
200:18	eight 222:17	201:14,15,19	214:7 215:21	250:18 252:6	evening 210:18
210:11	223:1	205:7,9	219:3,16	267:8	238:14
226:15,19	either 98:6	246:11	223:12,22	enacting 95:17	evenly 112:6
227:18	103:20 105:1	electorate	224:2,2,6	ended 151:12	everybody
259:19 265:6	105:3,4	158:17	226:8 227:12	262:4	157:2
267:23	164:14 192:6	eliminate	227:13 228:9	ends 101:20	evident 89:14
drew 98:22	195:22	165:20 187:4	230:17 231:3	147:11	97:13 107:24
107:20 108:2	201:11	ELLIS 79:4	231:7 232:9	169:18	237:25
114:14 181:1	212:14 227:8	Ellsworth 80:7	233:18 235:7	endure 193:3	exact 228:10
183:20 184:8	247:20	81:4 88:14	237:16	engaged 137:2	exactly 102:14
258:6	elect 128:14	102:19,23	240:11,13	engagement	183:13
	208:4	135:15,17	241:9,12,13	152:5 248:8	186:15

189:13 214:7 259:8 examination 81:3,4,5 87:6 87:9 256:16 268:8 examined 87:7 example 97:21 158:22 167:19 205:12 222:22 266:16 examples 263:4 Excel 175:19 exchange 93:6 95:12 173:24 exchanged 103:19 168:4 174:24 184:24 198:24 206:4 excludes 96:13 excluding 98:6 98:8 exclusively 202:17 executed 152:6 executive 114:6 exercise 128:13 251:5 exhausts 268:3 exhibit 81:8,9 81:11,14,16 81:18,21,23 82:2,3,6,9,11 82:13,15,18 82:20,23 83:2,3,6,9,11 83:14,17,20 83:23 84:2,3 84:5,8,10,12 84:15,18,21 84:24 85:2,3 85:6,9,12,15 85:18,21,23 86:2,3,6,8,11 86:14,16,19 86:22 88:12 90:17 118:1 118:3 119:12 120:16 123:14 124:5 151:15,17 152:9 159:1 159:3 160:5 162:22,24 163:11,13 164:18,20 168:1,3 173:3,6,6,24 174:6,21,23	177:5,9 179:1,3 180:10,12 182:8,10 184:22,24 187:14,16 190:4,7 196:14,16 197:21 198:20,24 201:24 202:8 205:23 206:3 206:10 207:1 211:9,11 214:9,12 217:1,4 219:9,12 220:23,25 221:19,25 223:20 224:18,21,23 225:25 226:6 226:8 227:4 228:7,9 230:14,18 232:1,3,19 233:16,18 235:1,3 236:6,8,14 239:10,12,16 239:17 240:8 240:11 241:7 241:24 242:5 242:19,21 243:20 244:5 247:1,3 249:3,5,19,25 251:8,11 252:10 253:17,20 261:3 262:10 269:6 exhibits 81:7 82:1 83:1 84:1 85:1 86:1 255:14 existed 265:14 existing 89:15 91:19 100:12 101:23 106:21 107:2 138:5 exists 237:6 expansion 265:20 expect 158:21 expected 157:3 233:8 expense 208:19 experience 113:20 116:24,25 117:1 196:11	experienced 194:24 expert 88:7 89:2 90:15 113:4 218:15 expertise 154:1 170:2 expertly 154:16 expires 271:22 explain 259:6 260:6,21 265:5 explained 266:18 explanation 97:8 Export 147:11 express 209:22 expressed 161:10 235:17 236:3 expression 223:6 expressly 261:1 extend 226:15 226:23 extends 237:19 extension 219:24 extent 166:6 212:7 222:21 255:6 extra 240:19 extraordinarily 155:13 extrapolate 97:25 eye 218:14,15 238:4 241:22 266:10 <hr/> F <hr/> face 115:14 141:19,19 Facebook 242:18 facilities 220:5 220:12 226:20 238:6 239:6 fact 95:4 96:13 100:5 157:8 174:11 175:8 186:16 212:6 217:14 221:16 250:16 267:6 factor 92:12 106:5 113:19 factors 92:14 113:21 115:9 115:11	FAEGRE 79:20 fail 97:3 fair 92:12 95:17 106:10 109:16 112:11 114:25 115:3 115:13,24 128:8 148:13 151:20,25 164:15 180:1 189:17 194:16 208:25 211:15 223:16 238:5 fairly 112:5 124:10 126:21 fall 157:11 familiar 88:4 244:15 far 177:15 213:4,15 214:4 237:19 263:19 fare 172:6 Farmingtons 169:5 Farms 227:22 FARRIS 79:4 fashion 160:1 favorable 250:7 February 119:1 164:22 federal 216:24 fee 118:9 feel 116:4,7,16 174:2 256:5 feelings 115:18 115:20 232:21 233:11 follow 115:14 felt 132:9 232:25 fewer 250:24 fewest 96:14 97:5 194:13 201:4,5 259:12 260:19 Fight 244:16 FightHard.com 244:15 figure 124:4 170:10 174:17 224:10 252:8 figures 152:11 156:9 235:20 file 175:16 221:4	files 145:14 147:11,18 final 140:12 172:17 223:17 225:23 237:4 252:3 264:8 finalized 93:3,4 126:23 148:15 finally 92:10 130:13 151:1 271:13 find 117:2 121:11 194:17 237:8 fine 135:16 146:15,20,21 147:24 177:2 218:23 243:17 269:18 fine-tuning 247:12 finger 226:15 227:21 230:11 236:19 237:8 237:16 238:6 238:20,25 finish 200:7 finished 99:7 firm 146:15,17 146:20,21 147:24 158:6 194:23 firms 247:20 first 92:9 94:2 118:7 129:8 132:19 135:3 153:5 159:11 160:15 165:4 177:17 193:16 195:16 206:1 206:25 210:18 211:21 213:5 214:12 219:9 219:15 225:25 230:16 231:7 239:17 244:15 250:14 251:21 252:24 262:1 five 97:22 98:4 98:7 112:20 161:25 fix 138:2 flaw 90:22 flawed 96:4,8	96:16 flip 230:16 Floor 80:3 focus 154:22 155:1 focused 95:24 172:24,25 173:2 206:13 folks 104:17 113:16 172:25 191:4 215:4 220:8 255:20 follow 260:21 follow-up 198:15 followed 219:1 following 93:14 169:2 235:23 follows 87:8 Ford 220:4,16 forecast 154:16 Forecasting 154:12 form 94:8 format 119:10 152:5 format 174:7 formats 196:17 formatted 158:2 224:11 formatting 202:4 formed 170:15 former 245:1,4 forth 138:24 139:16,20 forward 176:17 254:2 forwarded 173:7 199:3 241:12 244:11 forwards 159:7 found 141:10 foundation 215:25 four 153:17,21 161:25 170:24 176:1 211:13 253:7 fourth 102:4 120:16 frame 179:10 197:7 Fred 263:3 FREDERICK 79:4 Freep 159:12 frequency 197:8 frequent
--	--	--	--	--	---

164:13 240:7 257:17 friends 143:17 front 120:20 180:12 244:5 frozen 116:4 full 97:7 193:23 195:14,15 209:19 216:9 fully 91:1,13 function 94:24 fund 215:20 fundamental 97:3 fundamentally 96:4,8,16 funded 128:15 fundraising 156:2,12 214:21,25 216:21 Further 81:5 193:23 268:8 furthest 206:8 future 113:7 201:14,15,19 243:16 fuzzy 110:7 123:4 250:1	209:1 213:15 GIS 145:15 give 88:16 129:5 191:5 207:8 given 100:20 101:10 103:7 103:15 148:11 189:14 197:7 205:13 208:12 210:12 222:21 gives 109:14 giving 143:7 169:14 172:12 207:13 238:20 GLEP 254:3,5 glimpse 186:23 glitch 138:2 glorious 175:25 go 88:15 90:18 91:12 105:2 106:12 113:21 116:21 117:5 120:23 123:14 125:9 125:12 130:18 131:2 133:21 142:22 156:14 173:5 178:1 192:7 197:15 216:18 217:3 229:18 232:15 249:21 253:24 254:22 268:4 268:6 goal 156:3,12 206:18 227:16 265:23 266:5 goals 152:25 goes 220:2 228:17 going 88:15,18 89:9 97:4 116:21 124:19 134:24 153:19 156:18,24 177:14,14 215:24 225:5 234:2 237:7 251:4 255:9	257:13,24 258:25 good 116:17 135:15 136:16 183:5 199:25 201:1 201:9 208:19 209:7 226:25 229:5 238:8 238:13 242:12 243:12 255:16 GOODMAN 80:2 GOP 112:9 199:19 211:24 GOPer 172:5 Gotcha 228:6 gov's 191:4 government 178:9 202:21 237:17 governor 149:24 153:10 178:23 203:4 254:15 255:3 governor's 122:14 178:15 190:24 191:2 191:7 GP 255:19 GR 203:13 grab 226:20 229:19 238:9 grabbing 239:5 Grand 165:15 203:13 204:18 205:5 205:7,11 graphs 173:12 174:5,16 GRASHA 79:5 great 135:17 150:15 254:6 259:6 greater 89:18 208:23 237:5 Greg 142:8 243:24 244:6 Grosse 227:6 227:10,15,22 227:22 255:10,13 group 93:20 109:5 142:10 142:13,18 group's 142:16 groups 109:7 215:23 guess 89:7	91:5 102:4 112:4 119:13 150:2 166:16 181:13 183:12 199:5 200:1 204:3 216:11 227:19 230:7 243:6 247:22 guidelines 259:14 guy 242:16 Guyeskey 202:18 Guyeskey's 203:5 guys 195:1	heading 197:23 headings 167:19 heard 168:22 168:22 heaviest 166:25 heavily 119:21 heavy 104:25 134:23 heck 168:16 Heights 101:12 126:13,18,20 127:1 136:24 140:12 219:18,19,25 226:18 230:11 236:10 237:1 237:11 held 197:16 271:5 help 131:22 153:1 160:7 160:24 162:7 169:16 180:18 183:13 186:6 193:12 194:7 198:3 202:4 213:1 218:11 218:24 225:4 228:18 234:2 248:2 helped 94:7 151:18 172:13 186:15 212:4 215:19,20 helpful 174:2 helping 94:6 153:3 186:11 202:6 Herman 225:18 hesitate 262:3 Hey 192:11 hierarchy 91:19 High 225:19 Hillary 112:7 Hills 103:12,17 103:25 104:5 104:8,11 105:11 130:1 130:7,9 209:8 210:4 228:16 hired 157:17 158:5,6 historical 230:24 235:15 history 94:14 94:25 113:19	114:18 177:10,12 179:11 181:9 207:6 231:12 246:10 257:25 258:7 Hmm 195:12 hold 174:17 195:1 Holland 126:2 126:9,10 136:25 224:14 225:1 225:6,14,19 HOLLIDAY 79:5 home 193:18 honed 210:12 honestly 94:21 104:19,20 141:22 162:17 203:9 hope 219:6 hopefully 125:9 hoping 182:21 207:15 hot 239:5 hour 125:6 128:25 hourly 120:8 hours 124:4 131:2 132:17 134:24 136:20 140:1 143:10 146:8 149:4 248:20 House 90:19 92:24 94:7 94:11 97:20 99:23 112:24 122:14,24 127:12,18 130:6 135:2 141:10 144:7 149:10 153:13 163:19 173:19 186:10 188:5 188:9,13 190:15,18,21 191:7 200:22 204:1,6 206:23 224:16 234:6 243:9 246:1 246:2,6 247:15 250:11,20 252:25 253:1 262:25 263:4 264:7 267:11 houses 147:5
--	---	--	---	--	---

housing 213:25	imagine 115:2	153:20	161:25	initial 186:22	215:21
how's 112:13	115:19	155:17	168:17,25	initials 151:3	216:11
hubbub 146:1	124:13	182:14 183:9	171:6 213:19	inputs 91:14	invoices 81:10
146:2	217:24	212:11	227:13	96:10,16	118:4,14,16
Huizinga 133:2	250:14	251:16,17	250:11	insert 237:9	216:3,4
133:3	impact 100:21	257:1	indicated 96:18	instance	invoke 269:11
human 222:22	100:23 115:5	inclusion 96:1	98:18 117:25	259:18	involved 93:11
hundred	117:14,15	96:9	150:11 168:9	instances	93:12 108:16
213:24	189:21	inclusive	171:4 181:16	257:20	111:9 116:11
Hune 107:16	208:16	239:15	182:17	Institute	117:8 119:21
159:11 164:2	impacted	income 213:25	200:11 257:3	155:21	119:24 121:3
164:4,4	195:24	incomplete	267:9	215:15	122:16
hurdle 154:15	impacts 125:19	168:18,19	indicates	instruction	130:24
hybrid 197:21	204:9	171:10	123:21	92:18	139:22
hypothetical	implications	195:13	129:16	instructions	148:22 153:3
145:20,22	251:7	incorporate	133:20	92:21 263:16	155:20 164:6
<hr/> I <hr/>	important	94:24	144:17 151:6	intact 194:9,12	191:9 198:4
idea 119:6	92:14,15	incorporation	165:19	203:13,15	214:17,21,25
131:9 145:25	153:23	215:10	168:16	204:4 205:5	226:24 262:1
156:8,23	192:24	incorrect	174:11 175:7	205:12	262:6,8,8
175:9 187:24	220:11	170:21	175:14,22	intend 218:25	263:20,21
194:22	234:23	incorrectly	182:16 197:4	269:11	involvement
202:17 226:5	254:25 260:7	162:6	215:22	intended	262:14
232:17,23,25	improper	increase	226:23	218:24	involving 122:9
241:3 242:12	228:24	265:18	227:12 231:3	interact 108:8	132:21
243:9 249:9	improve	incumbency	248:15	109:24	Ionia 207:17
ideas 199:8	211:24	102:15 103:1	254:18	212:19	207:19,22
identical 88:11	213:14 214:3	105:20	indicating	interacted	Islands 150:16
identification	inaccurate	106:20 107:3	103:21	186:10	issue 150:3,9
118:2 151:16	144:10	132:8 260:3	179:23	interaction	268:4
159:2 160:6	inadvertently	incumbent	indicative	107:19	issues 116:3
162:23	269:7	92:13 98:21	124:14	201:11	isthmus 229:9
163:12	include 100:18	101:10 102:5	individuals	247:14	item 171:5
164:19 168:2	104:8 118:12	103:16 106:7	107:17	258:19	iteration
173:4 174:22	124:1 180:16	115:3,13,14	110:16	interactions	237:20
177:6 180:11	183:7 191:8	127:2 139:8	industrial	110:9	<hr/> J <hr/>
182:9 184:23	220:11	188:24 202:5	220:5 226:16	interest 102:16	J 79:3,5 216:8
187:15 190:5	225:18	220:15	238:6 239:5	105:21 106:1	Jack 79:4,6
196:15	226:20	252:13	inevitably	106:3,7	103:21
198:21	227:10	incumbent's	116:20	109:5,7	107:25
201:25	229:20,25	99:15	inexact 113:22	142:16	124:23 125:6
205:24	239:19 247:9	incumbents	influence	interested	125:17
211:10	260:18	86:17 99:10	116:13	109:17	130:17 132:2
214:10 217:2	262:23	127:1 137:19	158:14	130:19,22	174:24 175:2
220:24	269:13	137:20 171:1	info 131:14,17	182:6 271:13	175:10
221:20	included 97:10	171:3 200:25	142:23	Interesting	176:10 189:6
223:21	104:11 118:9	201:8 234:10	information	175:11	197:8 198:25
224:19 226:7	118:19	234:16,21,24	110:19	interests 264:1	200:12
227:5 228:8	119:13,17	241:16	114:11,18	264:2	206:11,14,18
230:15 232:2	122:4 148:7	259:24	120:11,14	introduced	240:5,10,24
233:17 235:2	148:20	266:22	121:13	87:21 267:19	241:12,13,20
236:7 239:11	150:12	incumbents'	131:19	investment	jagged 237:12
240:9 241:8	167:14	214:3	142:24 143:8	154:24	237:15
241:25	171:18 183:4	Independence	145:15	invitation	Jamie 107:25
242:20	184:10	229:3	157:23	164:2	127:6,7
243:21 247:2	211:22	index 81:7 82:1	167:15 174:6	invoice 118:7	131:2,7
249:4,20	213:23 233:3	83:1 84:1	181:3 191:7	119:12 120:6	132:20,21
251:9 252:11	256:25	85:1 86:1	212:15 221:9	120:12,16,19	140:13,14
253:18	257:10	161:9,10	245:9,15,17	120:19 122:5	190:12
identified	includes 96:10	Indiana 79:22	245:21	123:16,19	193:17 195:8
196:1 263:7	171:8 193:7	Indianapolis	248:15	148:4,18	196:6 206:4
263:25	227:14	79:22	249:13,17	180:16 181:4	206:24
identify 227:17	229:22,23	indicate 124:8	253:15 255:4	181:5,17,19	208:17 209:7
	including 132:3	144:18	Ingham 271:21	214:12,20	

209:24	129:7 131:2	203:15 204:4	141:9,22,22	243:11	227:22
210:12,19,24	133:21	204:5,5,12	141:22,23	244:20	229:15,23,25
210:25 211:6	134:15	kept 185:24	142:15,17	245:24,25	Lakes 150:15
213:2,13	135:19,25	KETOLA 79:5	143:1,24	246:23	254:6
219:9,15	136:21	Kevin 79:20	144:22	247:23,25	language 137:6
220:13,18,19	139:25	179:3 243:13	145:10,13,16	248:14,18,24	137:13
221:1 226:9	140:18	269:24	145:17,23	249:13,22	212:22
236:9,20	141:11 142:3	kevin.toner@...	146:11,13	250:9 251:19	Lansing 79:17
238:9,11,12	143:10,25	79:23	147:5,9,16,19	252:1,4	80:9,13 87:2
239:13,18	144:14,19,22	key 90:22	148:20,22,23	253:14 254:7	87:24 213:3
Jamie's 195:17	144:23,25	95:17 122:12	149:12,15	254:10,12,17	213:3
January 118:8	145:20 146:8	260:8	151:3 159:13	254:18	large 154:15
118:8 119:1	147:3,6,20,24	Kildee 193:8	159:21 162:9	255:14,17	220:12
163:15,21	167:1 223:23	kind 88:5 115:1	162:10,17	263:14,18	225:11
181:17	224:23 227:9	117:21	166:13,14,20	266:14	largely 201:13
Jase 107:15	228:10,10	122:23 139:3	166:23,24	267:18,20	206:14 208:4
Jay 270:1	231:8,22	149:12 150:7	168:18	268:15,19	267:8
Jeff 79:14 81:2	233:19 234:6	210:11	170:12,17	269:2,7,21	LASALLE 79:6
81:12 87:5	238:10,12	213:20	171:2 172:4	knowing	lastly 140:12
175:4 192:11	239:13,14	KNAPP 80:11	174:9 175:12	186:14	late 147:3
232:5,5	240:11	88:18 135:8	175:12	knowledge	242:11
236:9 271:5	241:10 242:2	135:11,21	176:18 178:6	93:25 95:20	latest 190:13
Jim 107:24	242:11	146:19 179:3	178:7 181:7	166:7 215:10	190:14
190:12	243:24 247:4	205:19	184:2,5,15	234:12	254:14
192:10	247:5 248:6	243:12,15	185:24	known 168:8	latitude 166:2
210:19,24	248:16 249:6	269:24 270:9	186:20	227:15	166:3
217:6 219:16	250:5	knew 109:19	187:13,20,23	knows 216:1	law 146:15,17
job 181:6	Justice 238:2	170:19	189:9,16	Kzoo 127:11	146:20,21
201:21	justices 128:14	184:19 214:5	191:1 192:4		147:24 153:4
jobs 181:5	Justin 195:23	Knollenberg	192:4 195:14	L	153:16 158:6
Jocelyn 136:5	242:9 264:13	188:22	196:9,13	L 79:5,5	158:6 238:24
Joe 107:16		193:21	197:7,10,14	labeled 171:8	247:19
263:5,19	K	know 89:14	199:25 200:5	242:25	lawyer 158:5
John 99:4	Kalamazoo	91:13,21	200:6 201:21	LaBrant 81:12	lawyers 247:19
106:21 107:4	128:1,2	93:8,16	201:22 203:6	128:23 149:7	257:1
186:14 203:4	Kamp 99:1	94:13,21,23	203:9,23	149:8 151:1	lay 215:25
266:22	167:9 182:20	94:25 95:12	204:19	151:2,5	leader 109:19
JOHNSON	183:1,4	98:8 100:7	206:19 208:1	152:8 155:25	136:13 144:8
79:10	207:11	103:13	208:22,23	156:11 159:4	190:20
Jon 79:5	208:10	104:18,20	209:11,14	159:7,14	262:24
107:25 133:1	242:14	105:6,10,13	210:23 211:2	164:21 165:7	267:11
250:6 255:17	Kamp's 193:7	106:2,3	211:2,4	165:14 166:9	leaders 92:18
255:22	Keego 229:15	108:18,19	213:8,19,23	168:4,20	92:22 108:2
Jot 216:11	229:22,24	109:14 111:9	214:6,7,19,24	173:8,25	108:9 114:25
JPEG 175:16	keen 207:17,20	112:8,12	215:9 216:10	177:8 182:11	178:23
JR 79:4	208:2	113:10,14	216:10,12	183:8 190:15	leadership
judgment 97:2	keep 132:5	116:6,10	217:22 218:7	198:15,25	262:19,20,23
199:20 214:2	185:18,21	118:21 119:4	219:3,4	199:8 200:8	leading 195:1
judicial 158:14	189:8 219:21	119:13,16	221:15	200:10	263:21
July 148:5,16	224:20	120:5 121:8	224:12,12,15	201:18 202:9	leads 96:15
166:25	254:21,25	121:21 123:6	224:15,16	206:4 217:6	League 79:3
249:25 250:3	255:4	127:23	225:20,21	219:16	111:4
251:16,25	keeping 169:4	128:24 129:2	226:22,25	228:10	Leaning 104:4
252:2 253:21	188:25 194:9	129:4,12,19	227:8,16	242:16	104:6
jump 143:10	194:12	129:20,21,22	228:14 230:3	244:22 249:6	leans 130:10
146:8 153:17	203:12,15	131:8,15	231:13,23	249:8,11	learn 93:9,13
156:2 193:4	204:3 205:4	132:3,8	232:8,13	258:15,16	learned 189:23
June 119:20	Keiser 108:1	133:14,15	233:23	261:20	leaving 124:15
120:17,19,23	133:7,9,14	134:4,6,10,12	234:13,20	268:10	left 92:2
122:6 123:19	134:16 135:5	134:13,20	236:21,23	lack 96:9	left's 159:12
123:23 124:6	230:20 231:7	137:8 138:14	237:4,14,21	Laingsburg	legal 122:14
124:6,12,22	231:21	138:20 139:9	239:8,15,23	193:8	191:8,9,11
126:1 128:5	Kent 138:24	139:21,24	240:2,3,12,24	lake 150:15	223:9 249:8
128:8,19,25	139:4,10	140:7 141:4	241:6 243:11	193:8 206:15	legality 201:10

legislation 152:24	124:19 128:8 129:7 131:2	listed 106:3 171:4 185:11	97:12 102:19 102:21	makeup 104:3 126:10,20	120:11,15,22 120:25 122:9
legislative 92:15,18 95:9 107:22 122:13 128:12 135:2 141:7 149:21 150:12 153:3 153:14 155:15 156:15 166:16 178:22 202:7 216:23 231:9 231:15,17 246:3 255:2 255:8 257:16 258:23 259:2 260:13,16,24 262:20,21 264:9,15 267:1	133:21 135:19 136:23 142:22 143:10 145:20 146:8 148:4,24 149:9 152:18 156:2,14 171:22 177:1 190:6 192:7 200:7 206:1 216:18 217:3 233:5 242:12 242:13 252:25 letter 121:12 152:5 195:16 248:8 level 208:5,5 259:16 265:9 Levin 238:2,20 LG 225:18 liaison 263:13 life 180:7 230:8 likelihood 192:17 Likewise 230:10 limit 261:1 limitations 222:22 limited 107:17 261:24 limiting 261:2 limits 110:6 123:3 260:25 Linder 81:13 164:2,5 214:24,25 222:4 223:10 line 96:15 97:6 132:24 159:12 168:14 177:9 194:15 196:25 259:13 lines 114:14 115:4,18 127:18 137:3 183:24 201:4 204:5 224:13 Liss 93:10 list 86:17 101:22 105:18 106:18 185:13 247:24 252:13,16 269:8	214:19 225:21 litigation 154:3 154:8 249:10 249:17 251:2 little 116:22 129:10 131:23 135:9 148:11 160:8 180:7 186:3 187:8 202:1 206:15 229:9 237:12 238:7 239:19 live 116:20 132:13 222:15 260:9 lived 171:3 230:7 255:17 lives 260:10 LLP 79:20 lobbying 143:18 local 208:5 located 239:9 269:2 location 163:23 long 79:6 142:2 166:18 182:18 208:17 234:1 252:5 longer 139:25 193:2 217:8 look 102:12 105:3 113:16 152:10 162:2 162:11 165:1 167:18 171:22 173:5 173:12 182:24 187:20 193:16 196:23 198:2 201:9 206:25 214:11 227:18 228:15 229:24 230:10 232:15,18 237:5 249:21 252:4 253:7 255:24 261:5 looked 97:18 97:22,24 98:7,9,12 111:16 160:22 233:2 239:8 looking 89:15	137:13 144:16,18 161:19 162:4 165:10 171:2 171:7 179:9 183:3,3 192:12 197:11 267:24 looks 134:23 161:6 174:9 174:14 200:25 211:20 221:10 236:12 237:10 238:18 253:11 LORENZO 79:6 lose 209:7 loses 209:19 loss 90:8,9 265:16 lot 113:10 123:22 189:25 205:8 217:9,15 240:24,24 257:17 lots 131:24 180:5 low 160:9 lunch 205:17 205:21,25 Lund 107:16 242:2 lurking 131:25	208:6 making 130:19 130:23 134:25 241:13,22 244:2 269:15 man 217:21 Managing 153:18 manipulate 225:17 manner 103:16 manual 253:12 map 81:19 89:15 90:24 91:8 92:2,16 92:17 94:5 94:10,16 96:12,19 98:9,12 105:4 107:10 109:8 127:19 129:7 134:6 134:23 143:7 146:4 147:7 148:8,21,22 160:15,17 162:14,18 163:1 166:17 168:6 171:7 171:24 174:18 181:25 182:7 183:18 185:12 186:10 188:4 188:8 190:19 192:13 193:18 196:4 197:13,13 200:19,25 208:22 210:11 211:20 222:12 225:3 225:22,23 226:10 227:17,18 229:8,21,24 230:4 233:24 237:7,9 250:7 251:12 251:18,23 256:19,24 258:12 260:14 map-drawing 181:14 mapped 90:12 mapping 119:22,24	120:11,15,22 120:25 122:9 123:22 124:2 124:11 226:9 maps 81:17 87:21 91:2,7 91:22 92:19 94:9,12,17,22 95:1 96:21 97:12,16,17 97:19,22,22 97:24 98:1,4 98:5,22 107:20 108:3 110:12,24 113:5 118:9 121:4 122:19 122:24,24,25 134:25 136:19 149:5 150:20,23 160:13 165:5 165:10 167:14 173:7 173:15 181:1 182:14,17,25 185:1 187:5 188:13,15 201:3 237:6 237:25 240:3 242:1 254:7 254:14 257:15,16 258:2,3,6 264:17 267:13,16,18 267:22,22 Maptitude 114:12 137:25 138:1 165:1 174:8 181:12,22 183:5 187:19 187:20 196:24 198:12 221:11 236:14 245:16 March 119:24 120:3 122:6 168:4,5,20 173:8 174:25 175:4,16 182:2 mark 80:2 202:12,20 203:5 206:2 245:2 264:23 marked 88:11 118:2 151:16 159:2 160:6 162:23 163:12

164:19 168:2	McCotter 102:8	meaning 155:6	203:25 251:4	268:14	mobilize 116:8
173:4 174:22	102:25 104:7	155:8 163:3	260:18	271:21	model 91:15
177:6,9	106:8 107:15	208:12	mentioned	middle 95:24	96:3
180:11 182:9	130:14,17,23	meaningful	93:24 97:18	175:1 199:12	modified
184:23	131:3 140:10	138:22	101:1 102:13	203:6 217:4	130:14
187:15 190:5	159:8,16	meant 131:23	105:23	245:7,10	moment 259:1
190:7 196:15	167:9 171:25	182:3 204:14	108:14	Mike 133:10	Monday 222:1
198:21,23	189:6 191:21	240:21	117:12	167:9	money 115:7
201:25	192:19,24	measure 88:22	125:22	mile 80:3	153:20,20,20
205:24	197:9 200:17	90:11	127:16 133:1	219:23	153:20 156:5
211:10	209:1 228:16	meet 97:3	134:21 144:9	226:23	156:6 215:3
214:10 217:2	264:12	167:3 211:5	147:15	239:20,21	220:14
220:24	McCotter's	266:4	153:21 166:1	miles 230:5,9	month 123:23
221:20	130:19	meeting 93:20	186:23	230:12	124:12
223:21	131:22	93:25 108:18	189:10 208:4	Miller 101:14	148:25 176:4
224:19 226:7	133:18 189:7	108:24 129:7	212:21	127:8 131:10	198:23
227:5 228:8	191:25	129:11,22	231:11 250:4	140:15	243:25 252:5
230:15 232:2	197:12	144:11	255:1,10	167:10	monthly
233:17 235:2	200:15	146:10,13,15	258:13,16	172:12	118:13,13
236:7 239:11	226:11	146:24	264:20	225:18	months 118:18
240:9 241:8	MCD 128:1	147:21,22	265:16,22	226:13,14	120:3
241:25	MCDs 128:1	163:14,16,17	266:6	263:4,17	mood 223:14
242:20	136:18	163:18,20	mentions	million 156:4	Moolenaar
243:21 247:2	McMaster	166:18,21,23	210:18	mind 124:10	99:4
249:4,20	93:22 203:25	167:4 169:2	Meridian 79:21	152:18	morning
251:9 252:11	242:11	169:7 185:7	merry 198:22	238:16	210:20
253:18,19	244:11	185:9,15,16	message 159:7	minded 116:8	Motor 220:17
Marquardt	245:20 252:7	210:20,24,25	176:5	mine 88:15,16	Mound 219:22
93:23 184:25	263:5,19	211:4,7	met 103:24	minimize 166:5	move 128:8
186:6 188:17	McMaster's	222:1	144:10 146:9	186:12,13	129:7 145:20
233:20 247:4	251:20	meetings 94:3	236:21	204:13	206:1 210:3
248:11,20	McMillin	110:23	metes 141:5	minimized	257:14
252:12	264:10	122:12,14,22	method 141:16	194:13 212:6	MRRI 118:14
253:14 263:3	McNeilly 142:4	123:2,8	Metro 191:14	minimizing	119:8 120:25
Marquardt's	142:7,8	129:14,20	Michigan 79:1	165:25	124:16
186:1 187:7	243:24 244:6	146:17	79:3,10,17	234:20	128:15 143:7
Marty 188:21	244:21	163:23 164:1	80:4,9,13	259:15	148:11 149:6
188:22 189:2	McNeilly's	164:5,7,9,13	87:2 88:2	minimum	152:6 155:22
189:4 193:21	244:14	164:13	90:19 92:24	236:25	156:1,22
match 237:5	246:23	179:17	94:6,7 108:7	minority	215:7,19,23
matched 89:4	mean 91:1	210:22	109:6 112:3	265:11	217:14,25
matches 124:5	102:10	256:18,22,24	112:17 113:5	267:11	248:10
matching	109:14,16	258:13	113:7 116:15	minority-maj...	258:20,21
181:21	132:21	262:16	134:2 143:5	265:3,23	261:4,13,15
material	144:16 153:9	263:21	155:17,19,20	minute 173:5	261:17
212:15 239:4	157:17	Meijer 202:13	162:18	196:17	262:12,15
materials	161:11,11,23	members	163:21	251:22	268:11,12,18
140:2,5	162:9 168:15	149:22 167:5	165:13	261:15	269:9
math 112:10	169:6 172:24	167:6,8	178:10	minutes 135:14	MTG 146:12
184:15	175:10 179:7	169:8 179:7	180:19	206:24 208:8	multiple
matter 115:11	181:10	186:19	187:11 188:9	239:24	134:15
135:13	190:16	190:17	188:9 196:12	255:23	municipal
201:17 230:9	192:15 194:3	201:11,13	202:19	MIRS 87:24,24	98:18 172:20
230:12	194:7 195:11	262:17 264:7	208:14 212:5	88:2 150:10	186:13,25
Mattie 216:14	200:4,19	267:4	215:13	miscellaneous	187:3 194:12
maximize	203:7,17	Memo 81:12	219:19	128:6	212:7 234:20
154:1	204:4,19	memorandum	222:14	miscount 97:23	237:24
mbrewer@g...	208:11,21	151:18	224:14	miscounts	259:16
80:5	209:9,12,14	memory 123:4	225:18 227:6	97:24 98:2	266:11
McCain 186:4	212:18 213:6	138:21	237:22	missed 219:6	municipalities
186:14	240:6,18,19	179:17	246:18	misstate	201:6 203:20
209:19 210:7	243:8 245:1	mention 96:13	253:12	218:19	Murley 149:10
210:13	258:24	98:20 100:14	259:20 262:6	misstatement	191:10
212:11	268:12	104:14 191:3	266:8,16	218:4	Murray 202:12

202:20	111:16	84:18,21,24	171:25	office 114:3,6	213:20
mysterious	134:21	85:3,6,9,12	175:11 186:4	122:15 123:5	216:14
242:22	138:10	85:15,18,21	196:7 203:7	178:15	219:14,21
	157:12,13	85:23 86:3,6	203:8 205:12	190:24 191:2	221:11,15
N	239:8 268:13	86:8,11,14,16	210:7,13	191:8,10,25	224:22 225:2
NAACP 111:1	new 99:17	86:19 89:23	230:21,23	208:18,25	243:3 244:21
name 107:23	154:17 186:2	96:14 97:5	243:10	231:13 241:1	245:9 249:23
189:15 216:9	189:22	97:15 98:17	248:21	268:18	252:7 253:3
229:3	246:11	99:20 104:12	251:23	officeholders	256:13
names 189:14	news 87:19	115:24	252:10	98:21 99:2	257:13,23
191:5 236:15	176:4 238:21	116:15 118:1	numerous	107:12,20	259:24 261:8
236:16	newsletter	120:7,7,19	107:22	114:21	263:23 268:2
narrow 266:10	87:25	123:16 128:1	nuts 242:17	115:12	269:17,23
National	newspaper	131:8 148:18		official 79:10	old 99:17
108:10,16,17	88:6 117:20	151:15	O	103:16	222:13
108:22,24	264:16	153:19	O 87:4	109:19	246:10
109:1	nine 98:6	154:10	Oakland 81:19	155:25	oldest 230:17
national-level	111:19,22,25	156:14 157:5	103:23 104:3	171:11 178:2	once 92:2
221:17	112:8 170:25	158:10 159:1	105:9 130:12	178:17	108:1 172:10
natural 184:18	200:25 201:8	160:5,9	130:12	181:18,24	208:19
258:9	201:13	162:22	131:25 163:1	245:22	one's 88:10
naturally 90:9	222:17 223:1	163:11	186:24 187:6	officially 262:7	ones 106:18
183:18	247:9 250:20	164:18 168:1	191:18 229:3	officials 101:11	132:2 146:18
navigated	nonpartisan	171:5,8	237:22 266:8	101:13 102:5	operable
153:6	99:8 100:6	172:2,19,22	oath 87:7,8	Oh 131:4 134:9	177:10
near 243:15	100:10,15,18	172:23 173:3	Obama 240:18	154:14 162:5	operations
necessarily	101:21	174:21 177:5	240:21	203:3 227:23	215:7,19
109:18	105:15	180:10 182:8	246:14	229:14	244:19
158:15	106:15 170:8	183:21	object 215:24	242:13 253:8	opinion 91:22
necessary 97:9	north 79:21	184:22	objections	Okay 87:15	113:4 158:15
137:18	229:19	187:14 190:4	244:1 246:1	88:1,4,7,9,13	170:3 195:18
218:10	265:25	193:17	observed 110:3	89:7,12	195:19
necessitate	north-south	194:14	obtained	90:17 98:12	209:16
234:19	219:25	196:14	111:17,20,23	99:2 101:5	260:15
necessitated	northeast	198:20 200:4	113:24	102:3 106:12	opponents
95:10	237:11	201:4,5,24	187:22	108:25	131:24,24
need 176:24	239:20	205:23	obtaining	110:16	132:6 263:24
202:7 203:10	northern	209:19 211:9	92:13	112:24	opportunity
203:11 242:6	165:13 208:9	214:9 217:1	obvious 229:4	121:13 122:3	87:12 88:22
256:5 269:20	208:13	217:4 219:12	obviously	124:19,21	90:11,14
needed 206:16	Northwestern	220:23	186:17	131:2 132:24	256:8
225:12	199:13	221:19 223:7	occasionally	133:6,12	opposed
231:21	Notary 79:15	223:20	179:16	134:15 135:7	113:17 120:8
253:14	271:1,21	224:18 226:6	occasions	136:1 137:6	170:6 264:6
negative 251:6	notch 239:20	227:4 228:7	144:12	137:12,22	264:14,14
neglected	note 96:6	230:14 232:1	occupied	139:25	opposing
97:12	101:9 124:4	232:16,19	170:25,25	144:20,24	158:19 264:3
negotiation	notes 141:20	233:16 235:1	occur 148:2	148:13,18,24	opposition
93:4	141:23 154:6	236:6,25	154:18	149:1,3,9	158:16,18,21
negotiations	notice 146:19	239:10 240:8	179:22	150:18 151:8	optional
137:2 149:21	171:13	241:7,24	225:15 251:3	152:2 158:2	165:23
234:3,4	NRCC 109:3	242:19	occurred	160:13 162:7	options 130:14
255:2,9	134:16,19,21	243:20 247:1	129:18 164:7	162:21 163:3	131:3 217:9
neighborhood	135:5 221:5	249:3,19	occurring	164:17,23	217:16
113:17	number 81:9	250:22 251:8	117:24	168:14	218:11,21
neighboring	81:11,14,16	251:15	129:14	173:17	260:25 261:2
104:22	81:18,21,23	253:17	occurs 116:4	174:16 180:1	267:7
neither 195:25	82:3,6,9,11	259:12	oddly 229:5	188:21,23	oranges 89:9
212:10	82:13,15,18	260:19 261:3	offer 209:25	192:9 194:2	Orchard 206:15
259:16	82:20,23	261:11 262:5	210:3 267:13	195:8 200:7	229:25
neutral 99:14	83:3,6,9,11	numbered	offered 197:9	202:8 205:20	order 189:4
102:14 106:3	83:14,17,20	123:15	218:15	206:7,24	221:5 225:17
218:9	83:23 84:3,5	numbers 86:22	offering 195:17	208:12	257:5
never 105:23	84:8,10,12,15	122:11	223:9	210:17	organization

88:1 195:5 214:15,17,22 215:13,20 254:5,8,10 organizations 110:14,17 216:3 organize 116:8 Orion 229:3 Osceola 207:13 ought 106:9 outcome 104:24 218:24 outlier 196:1 outline 182:20 185:5,22 outlines 261:9 261:10 Outlook 163:14 163:16 outside 178:24 overall 174:18 175:11 overlap 89:14 overrule 223:8 oversee 157:5 oversight 101:17 102:7 overwhelming 161:16 ownership 213:25	132:16 135:12 142:22 148:4 148:24 152:10,17 156:3,14 158:9 160:15 160:24 162:13 167:18,18 174:5,19 190:9,10 191:3,13 192:7 193:16 193:23 196:20,20 199:12 206:10 207:1 210:18 211:21 214:12 217:3 217:4 219:9 219:15 221:7 225:25 229:11 230:16 231:7 233:5 238:16 239:17 244:15 245:7 245:10 250:6 250:14 251:21,24 253:24 254:20 pages 88:21 124:5,8,9 160:10,20,22 187:16 198:6 251:11 253:7 paid 94:10 152:13 210:14 215:18,23 262:8 pain 239:18 paired 146:4 234:21 241:16 pairing 137:20 192:22 234:24 Pappageorge 186:2 187:8 paragraph 92:1 92:4 95:24 99:13 102:5 103:14 153:5 156:14 157:5 158:9 193:4 200:24 228:15 paragraphs 153:17 parenthetical	156:17 parroted 159:12 part 95:17,23 110:2 114:16 114:16 124:15 128:15 129:8 137:9 138:8 139:18 140:8 141:11,20,23 145:6 146:12 178:9,22 209:13,15 249:17 257:3 258:21 265:8 participant 164:11 participants 155:15 164:1 participate 110:23 140:23 166:21 participated 93:21 107:10 110:24 123:1 129:24 participating 122:22 163:20 participation 94:3 130:21 particular 88:1 100:16 103:12 113:16 114:15 118:23 120:6 126:25 134:12 138:14 139:8 156:19 161:4 180:4 216:22 264:13 particularly 101:11 parties 116:12 139:5 partisan 104:3 161:9,10 170:6,11 208:6 257:25 partisans 264:22 partisanship 249:2 parts 200:1 party 108:2,7 109:19 115:21 116:9 116:21,22 143:6 155:18 166:15 253:9	262:6 266:24 271:11,12 pass 152:24 153:3 189:5 202:7 passage 92:11 102:17 105:22 117:15 158:19 192:17 218:10 234:7 234:18 257:10,11 260:8 264:8 passed 147:4 148:17 250:18 267:25 passing 135:1 166:3,4 paying 190:25 262:14 PC 80:2 PDFs 121:19 pellsworth@... 80:10 people 104:12 104:14,21,22 107:20 109:12,13 113:10 115:22 116:11 179:6 179:7 182:6 183:5,17 184:19 190:2 194:22 199:12,13 200:6 202:4 212:22 225:11,12 251:15 258:10 263:2 263:4,6 266:12 percent 88:22 97:24 209:19 209:20 231:1 265:25 percentage 106:25 107:7 112:2,8 perfect 238:15 270:9 performed 110:3 128:16 148:8 period 122:5 149:20 180:20 182:4 184:7 202:24 239:13 245:14	253:21 265:15 persistent 125:11 person 166:11 216:10,12 218:16 personal 170:6 170:9 personalities 131:1,22 personality 125:10,11 personally 114:19,22 143:22 pertains 225:13 Pete 107:16 242:2 PETER 80:7 Peters 192:13 Phil 202:18,19 Phil's 203:10 203:11 phone 141:17 141:18 211:8 phrase 105:15 picking 207:17 picks 191:22 209:20 piece 151:24 piss 242:13 pissed 222:5 pitch 151:23 213:1 Pittsfield 169:19 PL 213:22 placate 125:6 130:18 placated 197:10 place 160:8 162:7 183:15 234:10 placing 165:14 Plaintiffs 79:8 79:24 80:6 plan 89:16,17 90:20 93:10 94:7,7 95:18 95:23 117:15 117:18 126:17 128:19,24 143:14,18,21 144:25 145:21,22 147:3 148:14 151:7 154:23 156:15 158:20 164:25 166:5	168:15,17 169:1,12 172:17 174:3 182:22 185:5 185:18 186:3 186:24 189:5 189:12,17 190:13,14,17 192:17,21,22 193:12 197:1 197:5,14,21 198:17 199:9 203:21 204:6 209:11 211:23 220:1 220:20 222:18 223:2 223:8,18,19 224:16 225:10 229:21 232:17 240:23 247:7 247:10 250:12 257:10 259:23 260:8 260:24 263:24 265:4 267:2 planning 262:7 plans 97:20 114:19 117:17 122:17 128:9 131:19 136:3 136:15 140:19,24 141:10 144:13 150:12 152:24 153:4 153:14,15 154:4 156:19 156:21 157:2 157:15 165:2 166:4 179:10 179:18 187:1 189:14 194:10 202:7 203:24,24 204:1,7,9,13 228:3,3 234:8 243:8 246:4 247:10 247:15,16 250:4,18 251:12 252:5 260:13 261:21,23 264:3,8,9,9 plant 220:4,4 platform 231:9 231:15,18
--	--	---	---	--	--

played 95:21 208:10 247:18 265:7	202:20 pollsters 113:18	predict 113:12 113:22 201:16,20	preserving 99:18 100:16 101:23	155:16 158:13 232:22	184:14 199:7
please 98:19 106:12,18 121:2 146:21 185:20 214:11 219:5 219:15 238:13 251:22 254:20	Pontiac 189:12 191:15,22 229:19 population 89:19 90:8 104:1 121:17 175:6 212:24 213:17,18 225:15 226:24 237:2 237:24 238:7 243:5,11 248:12 259:9 259:10 265:11,13,14 265:17,18,24 266:4,7	predicted 198:18 predicting 113:22 predictive 154:25 predictor 113:6 prefer 114:19 114:22,24 preference 104:7 115:4 132:5 139:9 208:6 prep 140:1 141:1 146:8 preparation 122:11,15 262:7 prepare 91:4 94:6 120:2 122:17 138:8 138:19 141:20 151:18 156:22 175:8 183:6 221:11 prepared 88:8 89:2 90:15 91:3,5 94:9 94:11 118:17 121:25 143:21 156:23 162:15 163:7 164:20,25 169:2 173:7 173:15 174:10 190:12 218:11 220:20 231:12 236:13 241:1 251:24 preparing 94:17 122:20 122:21 141:2 160:11 223:22 present 123:7 167:6,8,12 258:12 presented 262:12 preservation 102:15 105:20 106:20 132:7 preserve 106:1 107:2 138:11 154:6 269:20	president 258:20 presidential 167:22 202:3 press 140:23 141:1 255:6 Presumably 255:22 presume 98:1 pretty 209:18 238:25 252:3 previous 89:25 151:6 156:25 185:12 205:7 205:8 237:20 239:16 261:10 previously 92:20 181:21 pricing 152:8 primarily 90:8 94:5 123:11 127:16 216:21 236:9 primary 132:11 151:20 233:21,25 principles 193:13 prior 89:4 94:10,21 99:23 165:2 171:10 173:1 173:21,24 181:19 182:18 185:17,22 246:16 255:3 271:7 priority 195:10 prism 196:6 privileged 269:9 probably 121:19 123:15 213:24 237:5 problem 207:10 241:17,19 269:14 problems 233:13 procedures 269:16 process 96:19 110:2 111:2 111:5 116:12 117:11,23 119:10,10 124:16 153:7	produce 114:20 182:5 184:19 200:21 produced 92:20 97:19 153:12,14 157:14,16 162:9,11,24 163:9 173:11 174:7 187:19 201:3 221:14 231:1 producing 188:12,14 production 160:9 183:16 products 182:7 Professional 271:20 progress 153:18 prohibited 97:1 project 121:3 254:6 261:12 262:2 projects 119:9 prompted 132:3 proposal 170:21,24 183:7 198:4 199:11,15 200:20 209:2 235:24 236:4 237:18 241:14 261:4 261:9,13,18 proposals 241:21 proposed 125:15 138:7 145:1,24 152:8 167:15 170:24 171:22 173:7 174:3 175:21 185:1 186:3 186:21 190:1 191:13 198:8 199:9 200:14 210:13 222:10 230:21 231:1 232:20 235:7 235:12 236:11 241:10 242:1 245:14 261:11 proposing	proposition 241:13 pros 198:16 protect 201:8 201:14 protecting 259:24 protects 200:25 proud 232:24 233:6 provide 110:12 110:15,16 134:18 135:5 157:19 169:9 174:2 182:20 188:9 212:16 221:5 248:11 252:12 261:20 provided 157:23 171:21 175:20 186:5 188:3,19 218:21 230:24,25 235:11 245:8 245:18 254:7 258:10 providing 110:19 150:23 188:18 212:15 217:9 217:15 245:5 249:10 253:15 provision 269:11 proximity 100:20 public 79:16 116:2 117:9 117:13,16 140:2,5,19 144:14,16 158:9,13,15 194:16,24 195:6 201:9 233:13 264:20 269:15 271:1 271:21 publication 87:23 88:5 publications 150:10 published 179:19 purpose 131:15 133:14

178:25	raised 146:3	111:11,14	228:22	180:3,18	166:11
purposes	156:5,6	117:22,25	232:21 234:2	181:20	167:19,24
197:10	ramifications	118:11,15	235:23 236:2	182:25 187:1	189:9,13
pushing 189:6	203:18 205:4	119:3 121:24	240:13 243:4	191:6 196:19	204:7 226:22
put 88:1 93:17	Randy 107:15	122:10,20,21	244:4 245:24	199:15 203:4	238:3 243:3
132:4 151:9	222:6,7,8	122:21	245:25	206:19 222:3	243:5
199:17	263:10	124:15,18	246:20 248:7	225:4 228:18	reference
putting 196:6	Randy's 263:13	125:13	248:8 249:24	233:4,7,10,15	102:4 124:23
234:15	263:16	126:25	250:2 253:22	240:17 250:1	126:1 127:21
266:21	Rapids 203:13	127:15 128:3	255:12 257:6	250:3 251:14	128:19
PVI 161:8,13	204:18 205:5	128:5 130:15	263:20	252:9 259:11	130:16
	205:7,11	134:24 135:3	264:11,16,19	260:18	131:21
Q	RASHIDA 79:7	135:4,6	264:22,23	267:12,17	132:16
quantify	rate 123:16	136:14 137:4	265:1,2	record 118:22	136:23
113:11 116:1	raw 120:7	138:17	269:1	197:15,16	140:18 141:5
152:3 161:14	243:10	139:11,12,15	receive 114:7	268:5 269:13	142:22 145:6
quasi 168:19	reached 189:20	140:4,16,25	180:14 242:1	270:12 271:4	147:6 149:9
Quasi-post	270:3	141:13,14,16	256:25 267:2	records 133:6	150:20
168:15	reaction	143:16	268:20	154:7	152:11 189:7
question 94:20	151:23 186:1	144:11,15,24	received 93:6	recounted	189:12
137:21	199:11,16	145:1,5	95:11,12	93:14	197:25 206:9
155:24	241:14	146:4,15,18	103:20	recruit 116:22	207:5 209:22
168:10	read 126:4	146:23	119:19	red 163:3	209:24
171:20 172:9	130:2 132:25	147:22,24	121:12 159:4	redacted	247:19,22
176:7 185:11	133:21 142:4	148:16	160:10 164:2	249:17	249:2
185:20	151:23 176:3	150:19,24	164:21 176:5	252:18,20	referenced
186:17,18	187:7 195:18	151:4,10	185:18,22	redistricting	245:6
189:24	196:3 219:5	154:9 155:4	187:13	87:21 108:11	references
194:21	229:17	156:11	192:10	109:2,11,22	149:17 150:3
199:25	238:21	159:13	198:25 199:5	109:25 110:2	189:11
206:17 213:7	reading 129:8	160:11,12	220:19	116:3 117:10	referred
214:13	170:18	161:7 163:6	233:18 267:6	119:14	176:22
218:23	182:15	163:20,25	267:6	124:11,16	178:25
220:13	195:12	164:1,4,5,12	receiving	128:12	188:21
232:14 242:3	206:12 207:7	164:13	249:24	129:14 138:9	197:22 234:5
247:23 258:4	228:19	166:20,23	recipients	148:14	266:13,14,15
258:9,11	ready 135:25	167:4,8,11,12	224:7	149:23	referring 99:9
260:8	real 115:5	170:1,17,18	recognize	151:24	101:13 150:9
questions	151:11 203:6	172:21	118:3 151:17	152:24 154:4	150:14 155:3
179:6,12,14	203:8	175:24	159:3 163:13	154:21	166:9,14
180:5 183:17	really 90:4	176:19	164:24 168:3	155:20	169:8,20
184:18	116:5 184:3	177:16	173:6 176:8	156:25 158:7	172:2,4
186:19	213:11 222:6	179:21 182:3	182:10 202:8	163:18,24	177:23 184:9
189:25 192:5	Realtime	182:23	220:25	164:7 179:2	185:17
202:5 212:18	271:20	184:21 185:7	240:10 244:6	179:10	193:20 200:6
243:23 256:3	reason 90:16	185:9,10,15	recollect	191:10	200:17 204:9
256:12	101:3 105:5	187:12 188:1	130:16	210:20	204:12
257:24 268:3	110:18 120:5	188:19	recollection	214:18 215:8	208:24 214:8
268:5 269:3	148:1 168:10	191:16 192:1	107:16 120:9	215:13,16	226:16,17
quite 172:6	170:20	197:5,23	125:23	229:6 261:12	248:23
194:23	173:13	198:1,19	126:22,24	262:2 263:12	250:10 251:6
quote 152:17	178:19 208:1	203:22 204:1	128:7 129:15	263:18 265:7	255:11
	216:5 223:25	206:5,6,20	129:24 130:8	redrawn	refers 120:22
R	231:4 240:14	207:11,12,18	132:1 138:12	250:15,16,19	125:24
R 80:11 87:4,4	reasonable	208:12 210:8	147:1 149:2	reelected	126:16
R&C 241:2	115:9 135:9	210:16,24	152:7,15	103:2,5	148:19
R+7 161:11	reasonably	211:7 214:13	156:25	reelection	166:13 181:9
race 108:15,23	177:20	215:1,5	159:15,18	133:22	188:6 189:10
213:20 214:1	recall 89:1 94:1	216:2,4,22	160:4 162:12	refer 126:6,13	204:3 227:1
235:19	99:6 102:14	218:3 223:14	165:9,11	127:12	228:2 230:24
racial 199:23	106:18,24	223:22,24	169:7 170:5	132:22	235:19,20
248:12	107:14 108:1	225:8,9	173:11 174:4	143:25	249:9
radio 117:20	109:9,21	226:4 227:3	175:20,23	145:11 146:9	reflect 182:17
raise 220:14	110:1,5,9,25	227:9 228:20	176:9,21	160:13 161:8	256:2

reflected 148:12	reliable 113:16 155:10,23	268:12	163:17	127:17	119:22
reflects 148:10	relying 105:12	Republican	220:19,21	rest 90:3 151:9	123:20 124:1
refresh 165:10	remained 100:1	92:22 94:16	221:8,16	151:10 193:9	124:17 127:9
175:19	remaining 87:7	100:1 104:6	236:19	228:19	128:15 129:8
180:18	remains 270:2	105:8,11	239:22	result 113:24	130:21
182:25 183:2	remember 93:19 101:25	108:7,9,15,17	245:19 252:7	167:14	133:19 134:2
225:4 228:18	123:3,4	108:22 109:7	254:17	177:24	134:11,13
242:6	151:12	109:10,24	requested	212:18	135:21 142:4
refreshed	200:13	111:14,17,20	129:2 133:14	218:20	142:11 143:2
179:16	remove 195:20	111:23,24	134:4 141:6	234:21	144:5,14
refreshes	197:6	112:2 114:21	141:6 143:9	235:20 251:2	151:4,11,13
149:2	removed 197:12	114:25	191:15,17	resulted	152:22 153:2
regard 90:1	removes 197:1	116:11 117:3	226:21	266:11,20	154:4 155:1
106:23	rep 193:19	126:12 127:9	236:22	results 94:11	155:8,18,22
109:21	repeat 185:13	130:20,25	248:13	94:22 112:5	157:2,18
171:24 195:2	replies 206:24	133:3,12	requesting	154:23	158:3 159:8
224:15,17	reply 175:1	143:5 153:12	224:13	171:14,17	160:2,14
247:14	report 88:7	155:18 161:4	228:13,22	175:6 177:14	161:3,15
256:21	89:2 90:15	162:15	236:20 254:3	184:6,12	162:5,5,5
257:19	90:17,22	166:15	requests	198:7,18	163:10
260:10,23	91:13 93:17	167:23	163:14	205:14	165:18
270:1	94:8 95:24	169:22 171:1	191:24	209:22 233:8	167:16
regarding	102:13	172:3,7	require 153:19	235:12,14,17	168:23
108:11,23	104:15 124:6	180:24 184:7	228:17	245:13	173:18 176:5
139:17 142:6	136:10 138:4	184:13	234:15	retain 90:2	177:24
143:13	141:12 234:5	190:17	259:17	retained 88:23	179:19
159:18 225:1	257:18,19	192:25 194:4	required 95:15	89:5,25	183:11,20
247:15	260:21	195:20 196:7	96:17 104:13	261:17	184:13
regards 166:5	reported 147:9	201:13	132:13	reto 125:18	189:22
188:12	149:15	202:14,25	234:17 238:2	retrogression	190:10,24
203:22	reporter 206:2	206:22	requirement	107:1 241:17	195:2,6
Registered	271:20,20	207:23,25	166:1 259:12	return 194:20	202:5 205:8
271:20	reports 118:5	209:1 221:23	260:22	review 87:12	205:16 212:2
regular 163:23	118:13 119:5	227:7 235:18	requirements	127:19 137:6	212:10 214:3
regularly	120:2 124:22	235:21	259:14	140:1 256:9	215:1,12,20
118:22 164:8	138:3,8,11,14	244:24 246:7	requires	reviewed	218:21 223:2
164:12,12	138:17 141:6	246:12,18	222:15 259:8	140:17	223:12 224:3
Reid 149:10	148:25 175:6	250:8 253:4	requisite 92:11	159:19 206:6	229:11,18,19
Rejected	179:23	257:8 262:6	resemble 91:17	reviewing	230:7,10
251:12	195:24 220:3	264:1	residence	121:24 140:3	232:5 233:9
related 87:21	represent	Republicans	220:10	140:20	234:22 235:9
141:10	132:14	93:5 94:13	Resource	revised 211:19	236:14,18
181:20	169:11	95:12 99:22	155:20	220:20	237:12 238:5
215:16	193:21 253:4	112:6 114:5	215:15	revisions 149:4	239:1 240:1
216:21 242:8	99:23 108:9	114:24	respect 169:17	149:18	244:10 246:2
255:14	116:13	152:21	257:14	rhetorical	246:8,19
relations 116:3	172:24	161:13	258:12 260:3	176:7	248:4 252:19
117:9,13,16	194:18	163:19	263:11,17	RICHARD 79:6	253:1 254:15
158:10	211:18	178:14 179:9	269:8	Richardville	263:6
194:24 195:6	represented	184:17	respond	107:15 222:8	Rights 92:10
201:9 233:13	99:1 127:7	190:22	176:11 208:8	263:10	100:8,21
relative 271:10	206:22	194:20	responded	rigged 117:23	107:5 241:18
271:12	247:20	199:19	238:14	right 89:18	260:11
release 122:11	representing	200:21	242:16	91:12 92:22	266:19
122:23 140:2	209:4,5	202:16	response	94:9 95:1,4	ring 198:3
181:18		207:24 208:4	185:11	99:24 100:2	rival 192:19
released 140:5		218:12	208:18	103:2,6	rivals 189:1,8
144:13,15		221:17 234:9	209:25	111:12,12	RIVERA 79:6
165:3 173:22		246:12 255:5	239:24 244:7	112:13	RNC 200:18
182:1 213:22		257:12 264:7	responsibility	113:13,25	Road 80:3
269:10		request 128:3	152:23	114:15	Robert 249:6
releasing		130:1,7	156:20	115:25	258:15
140:19		131:7 134:20	responsible	116:23	Rochester
		149:7 163:16	94:6 123:11	118:18	103:12,17,25

104:5,8,11 105:11 209:8 210:4 rock 194:2,3 Roe 107:25 127:6,7 131:2,7 132:19,20,22 136:23 190:12 193:17 195:8 197:21 206:4 206:24 208:17 209:7 210:19 211:6 219:9,15 221:1,4 226:9 236:9 239:13 RoeHybridPl... 197:25 ROGER 79:3 Rogers 133:11 167:9 172:1 209:19 210:12 213:13 Rogers' 208:18 208:25 209:4 role 95:20 155:25 157:21 176:15 194:10 247:14,17 258:19 263:11,17 roles 122:24 ROSA 79:5 roughly 89:21 104:2 111:14 112:1,11 113:3 126:11 152:16 174:16 219:19,25 225:11 rounded 120:7 roundtable 140:23 141:2 routine 138:8 royal 166:10 RPR 79:15 ruled 270:4 run 116:18,23 117:2 132:11 142:18 231:9 231:17 RUTH 79:10	133:18 139:16,22 140:9 142:23 177:8 182:11 183:8 235:4 236:2 241:9 253:25 Sandy 238:20 sarcastic 242:14 Sarpolus 150:3 150:5,6 247:10 satisfied 172:10 238:18,19 satisfy 172:13 201:12,13 211:17 226:19 258:6 satisfying 171:19 189:4 222:23 Saul 108:21 saved 189:14 saying 91:5 99:7 103:4 107:17 175:24 269:25 says 123:25 127:11 128:6 128:8 130:1 131:14 132:19,25 134:8 137:5 140:8 142:3 146:12 154:11,15 155:4 158:9 162:13 163:18 165:4 167:20 169:21 171:5 176:3 177:10 181:4 182:15 182:23 186:23 191:21 196:25 200:14,18 206:13 207:10,13 210:5 216:11 217:13 218:21 223:5 223:12 227:14 228:15 232:11 239:18 246:22,23 248:15,16,20 251:12	252:17 scale 229:8 scenarios 165:5,7 Scenic 193:8 Schauer 245:2 scheduled 164:8,12 School 225:19 Schostak 108:5 131:19 142:23,25 143:2 150:21 235:4,24 236:2 249:25 250:13 254:13 Schuitmaker 221:21 222:23 science 113:23 scientific 98:3 Scio 169:19 Scott 80:11 263:2,7,9,14 screw 169:12 170:3,22 screwed 169:25 170:16 screws 169:6 scuttle 143:13 seat 169:5 171:25 172:1 191:15,19,21 194:2 195:23 196:3,4,11 206:16 seats 111:17 111:20,23 112:9 127:12 211:24 second 88:16 92:9 99:13 102:22 120:19 121:18 126:7 131:21 135:20 167:18 185:4 190:8,10 196:4,5,12 206:10 211:5 217:3 225:13 228:15 230:16 237:7 242:6 246:17 250:6 256:2 secret 156:19 156:21 157:2 secretary 79:10 114:2 142:20 157:25	178:15 section 99:7,12 100:4,8,16 101:20 secure 218:9 260:7 see 90:20 92:4 114:24 117:18 120:22 123:17 124:7 124:8 128:5 128:19 138:24 142:22 143:10,12 147:20 149:2 149:9 150:2 150:20,25 152:11 154:11,15 158:10 160:22,25 161:2 167:19 168:25 171:4 174:18 176:3 176:15 182:7 182:21 188:17 189:9 189:11 193:5 193:10 196:16 197:13,25 206:11 211:19 216:12 219:5 219:8 224:6 225:20 227:21 228:2 229:15 237:10 247:19,22 251:17 253:1 253:6,10,25 263:15 seeing 148:1 208:22 215:2 224:7 248:8 seeking 249:8 seen 107:24 179:22 205:8 223:12 seldom 117:5 sell 174:15 Senate 94:7,12 95:7 97:20 112:21,23 122:13,24 127:19 134:1 134:2 135:3 144:7 147:15 153:13 173:19 186:10 187:3	187:5 188:5 188:9,13 190:15,18 191:7 203:24 204:6 206:23 222:12 223:19 224:16 234:7 247:15 252:25 253:1 262:24 263:3 SENATE0005... 81:22 senator 99:3 159:11 188:24 221:22 222:4 253:4 send 175:3 216:5 241:9 245:20 268:20 sending 142:24 214:13 216:2 216:4 244:10 245:25 sense 136:17 169:12 sensitive 255:8 sent 120:6 176:10 182:11 183:7 190:12 192:2 215:18 224:2 228:9 239:24 240:11,24 242:23 244:7 244:7 249:5 251:15,25 254:13,14 sentence 153:21 154:15 158:12 159:11 165:4 166:8 172:5 176:6 178:1 194:7 195:15 196:3 206:13 209:18 September 148:19 271:15 series 206:3 serve 179:1 served 143:17 services 120:12,15,23 261:19 session 87:13 94:2 set 91:7,24 96:25 173:6 settle 222:1	settled 269:12 settling 222:2 seven 128:9 199:13 214:7 Sex 213:21 shame 229:6 shape 145:6,8 145:11,11,14 147:11,17 226:17 233:13 236:3 237:10 266:17,21 shaped 229:5 266:12 share 126:8 184:15 188:15,16 235:18,21 shared 110:19 114:4 128:24 178:23 190:15,17,19 191:6 202:9 231:11 sharing 255:5 sheets 183:6 184:10,11 Shiawassee 193:5 207:16 shift 259:12 shifted 128:1 225:12 shifting 96:13 97:5 194:13 260:19 shit-cans 223:2 223:13 shores 207:3 short 157:11 174:15 shorthanded 258:24 show 165:5 177:14 252:24 showed 138:17 184:11 186:23 230:25 showing 171:14 184:7 211:22 245:13 248:12 shown 236:23 237:25 240:4 241:6 246:6 261:3 shows 161:24 246:9,9 side 176:8 194:8 233:9 sight 213:4,15
---	--	--	--	---	--

214:4 sign 255:20,20 signed 149:22 149:23 153:10 178:22 significant 91:10 106:19 109:20 significantly 99:19 222:12 signing 255:3 similar 94:3 98:14 105:7 185:11 186:19 191:12 similarly 104:21 116:8 simple 184:15 simply 91:24 258:8 sir 186:15 218:23 sitting 196:10 six 222:25 223:19 six-break 185:5,21 skinny 229:8 sknapp@dick... 80:14 slightly 112:6 172:1 242:22 slipped 173:19 small 104:11 184:16 193:7 208:13 266:10 so-and-so 132:4 so-called 146:2 software 94:23 95:2,3 114:9 114:10,12,17 137:23 138:5 157:21 175:5 175:13 178:24 181:23 205:11 210:10 221:12 235:11 245:16,17 solely 91:15 solid 177:20 194:3,3 217:10,16 218:5,12,22 somebody 109:13 149:7 155:25 191:9 231:24	267:24 somewhat 259:1 Soon 176:25 222:25 sorry 88:14 105:2 118:13 135:4 162:6 182:19 203:3 226:14 227:23 264:25 sort 139:20 140:14 151:23 182:20 210:21 224:6 227:20 230:20 270:3 source 114:7 sources 188:1 south 79:16 80:8,12 219:24 239:20 southeast 191:18 237:22 266:8 southern 79:2 191:18 Southfield 80:4 191:23 speak 116:10 speaker 130:5 136:13 190:20 speakers 262:24 Speaking 240:10 specific 96:2 120:9 126:24 129:15 146:18 147:1 147:1 173:11 185:9,15 187:12 199:15 206:19 207:8 219:1 228:20 240:13 259:11 260:18,24 specifically 139:11 140:16 148:23 154:9 155:4 160:12 172:4 173:9 183:2 184:20 185:16 188:19 227:1 243:25 250:2 253:23	255:12 265:2 specifics 137:4 147:16 150:19 197:5 203:23 specifies 96:10 speculative 121:4 122:18 125:17 128:13 spend 115:6,7 124:19 spent 123:19 123:22 124:1 149:4 217:9 217:15 218:16 262:5 split 95:15 97:16,23 98:5 112:6 126:2,13,22 127:1 136:18 136:18 145:1 201:5 204:12 205:14 219:25 225:14,17 226:17,19 237:1 splits 97:25 98:7,18 126:17 128:2 186:13 194:13 206:13 212:6 212:7 229:2 236:25 splitting 95:10 97:6 101:11 103:11,17,24 203:20 205:4 228:17 spoke 190:2 212:22 spreadsheet 175:19 Square 79:16 80:8,12 St 150:15 staff 107:19,22 107:23 110:10,13 122:13 127:3 130:5 131:11 131:12 133:2 133:10 136:13,13 141:7 144:7 147:16 159:17 169:9 201:12 212:20 262:21,22 263:1,2,10	267:3,10 staffer 134:1 stamped 206:9 210:1 standards 194:8,12 260:15,16 stands 88:3 start 136:23 140:1 174:5 175:3 190:8 200:7 206:7 starting 182:7 starts 195:13 state 79:11 90:4 96:21 96:23 112:2 116:17 117:13 127:12 149:10 157:25 158:24 174:18 178:9 178:15,24 187:11 188:24 189:2 193:19 196:4 196:12 202:21,23 203:24 204:1 206:23,23 219:19 221:22 222:4 227:20 243:9 246:1,18 250:11 257:15,16 258:14,18 259:2 260:13 260:16 264:7 State's 114:2 STATES 79:1 statewide 111:14 112:5 180:24 198:7 statistics 175:21 Stats 175:18 status 147:3 statute 91:8,23 96:22,23 97:1,9 186:7 212:5 222:14 234:22 259:1 259:2,17 260:17 261:1 statutorily 96:18 statutory 91:16 92:9 95:16 96:11 183:14 258:23,25	stay 193:12 steeped 195:5 steps 219:2 269:20 Sterling 81:10 101:12 118:4 119:7 120:6 126:13,18,20 127:1 136:24 140:12 152:6 152:13,25 153:6,23 156:22 157:8 157:17 158:5 163:6 194:23 216:19 217:14,25 219:18,19,25 224:3 226:18 230:11 232:4 236:10 237:1 237:11 247:21 248:9 261:4,11,16 261:20 Steve 81:13 214:24,25 222:4 223:10 223:15 Sticking 198:22 stop 135:19 158:16 straighten 176:13 strange 237:21 237:24 266:17 strangely 266:10,12 strategy 249:10 street 79:21 236:15,16 252:19 253:12 strength 183:25 241:5 strict 95:15 257:21 strike 158:6 185:20 242:3 string 190:6 202:9 strip 219:22 strong 103:8 106:8 115:17 115:20 116:17 125:10 130:20 132:5 161:17 172:7 207:14 223:11 246:7 strongly 117:3	117:4 Stu 177:8 182:11 235:4 241:9 253:25 Stuckey 151:1 studied 87:15 stuff 209:7 subject 163:18 168:14,16 177:9 196:25 251:12 subjects 108:12 submit 125:5 submitting 118:16 subsequent 125:12 suburb 130:11 suburbs 265:19 successful 153:1,7 sufficient 102:17 105:22 117:18 265:14 suggest 125:8 125:18 161:15 162:14 268:12 suggested 105:5 176:10 206:11,14 215:2 244:22 suggesting 91:2 suggestion 103:23 197:9 suggestions 240:7,25 Suite 79:16,21 80:8,12 suited 130:23 summarize 259:5 summary 188:4 supplemented 256:5 supplied 177:12 supplying 202:2 support 93:10 95:11 102:17 105:22 116:9 158:16 192:22 202:6 244:24 246:7 supported 234:7 supporters
--	---	--	---	--	--

207:14 209:2 supporting 194:4 Supreme 97:5 128:9,14 149:5 151:6 151:8 228:2 sure 87:21 94:18 105:24 108:4 109:12 112:15 113:23 127:21 130:19,23 131:17 203:21 205:19 210:23 222:14 223:25 243:14 254:20 256:10 259:8 surrounding 125:19 180:4 Suzanne 79:15 130:1,4,5 263:4,17,20 263:20 271:19 Swanson 231:12 Swanson's 178:3,5 swapping 199:12 sworn 271:8 Sylvan 229:15 229:23 T table 81:1 161:2,3,24 171:13 183:9 187:17 188:10 196:17 267:25 tables 183:12 183:13,16,16 187:19,21 188:4 tabulates 161:3 tabulation 167:22 take 88:21 90:11,14 91:6 101:18 107:3 118:7 122:4 125:20 135:9,14 146:12 154:22 166:4	169:1 171:22 173:5 176:6 177:1 181:10 203:7 214:11 219:2 226:11 233:5 242:6 246:3 255:23 260:3 261:4 taken 79:14 88:19 99:3 100:7 101:21 135:22 177:3 183:15 205:21 243:18 255:25 269:20 talk 117:20 135:25 152:18 153:5 153:17 156:3 199:8 211:7 241:20 254:22 talked 109:5 264:12 talking 89:10 159:11 200:2 200:15 203:23 219:13 229:12 230:11 238:5 243:6 247:8 247:12 255:13,19,21 268:10 talks 165:14 266:16 target 106:25 107:7 193:18 task 92:6 219:1 taught 113:20 team 183:1 technical 182:4 technology 154:25 181:14 telephone 268:23 269:1 tell 128:9 137:6 162:25 163:8 168:20 170:13 191:14,17 197:3,22 205:3 216:8 219:6 237:19 242:23 243:1 251:10 271:8 telling 124:16 172:22 201:18 ten 80:3 98:6	250:14,20 254:22 ten-year 184:6 tend 126:12 term 110:6 123:3 terms 89:5 94:18 99:18 105:25 107:10 109:2 115:23 134:25 194:3 196:5 198:17 200:2 201:9 203:18 210:7 229:17 234:3 237:16 238:25 239:4 territory 139:1 150:11,14 169:14 171:8 209:5 226:24 236:19 Terry 93:22 184:25 187:4 233:20 247:4 252:12 263:3 testified 87:7 260:2 testimony 256:10 261:10 270:7 271:4 text 192:10 Thad 102:8,25 103:21 107:15 132:8 167:9 189:6 192:13 197:9 200:17 208:19 209:20 210:12 264:12 Thad's 103:24 169:5 193:2 200:14 207:3 thank 102:23 108:8 133:24 135:21 144:3 197:19 227:2 228:4 235:17 235:23 242:7 256:11 268:2 269:4,23 270:9,10,11 Thanks 147:13 151:13 175:10 221:15 they'd 168:25 thing 103:4,22 105:24 117:21	135:13 177:17 187:12 205:2 205:6 269:6 things 131:4,9 153:19 179:10 183:22 188:18 202:4 210:21 212:23 217:23 218:1 256:14 261:11 think 88:2 89:2 93:5 96:21 98:3 100:25 104:14 106:5 108:20 113:10,20 115:10,16,22 115:22 116:4 116:7,15 117:12 121:19 122:18 130:10,22 132:1,19,20 132:25 135:24 137:11,12 140:19 144:6 144:16 145:14 147:17 148:10,12,16 156:10 159:24 164:10 167:6 176:9 178:7 180:23 187:22 190:7 192:2 193:1 193:20 194:5 194:22 195:17,22,22 199:21,22 200:24 201:18 204:10 206:8 207:22 209:4 210:9,14 213:16 218:14 220:14 221:13 222:7 223:25 230:17 240:14 241:15,16,18 244:18 246:16 250:17 251:17,24	252:16 256:7 257:17 263:6 263:19 267:20,24 268:2 269:17 269:18,24 thinking 170:19 248:7 third 166:11 174:5 thought 97:8 117:14 125:5 187:12 201:12 208:25 228:24 232:22 thousand 98:4 thread 221:1 230:17 235:3 236:8 239:12 242:4 249:24 253:20 threatening 234:9 264:14 three 124:5,9 161:17,24 204:9,11,13 211:11,13 229:4 257:14 265:7 throw 222:18 Thursday 210:20 242:11 till 269:11 time 106:22 107:4 108:13 109:5 110:6 115:5 118:5 118:13,16,17 118:21,22 119:8,14,16 120:2 121:7 122:5,17 123:19 124:1 124:6,19,22 129:13,13 130:7 131:18 131:18 132:23 133:6 134:25 140:6 141:25,25 142:11,25 144:6 146:16 146:25 147:20,23 148:10,12,13 148:19,25 150:23 151:11 160:8 162:8 165:8 166:22,24 168:8 169:18	170:21 172:7 178:2,21 179:23 180:20 181:15 182:4 183:8 189:2 191:11 192:11 193:22 197:7 200:10 201:2 201:7 206:8 206:21 210:10 214:14 216:24 217:9 217:15 218:16 221:4 223:11 224:14 225:5 228:13 232:22 241:21,23 243:12,15 249:14 253:15 256:4 256:11,12 264:16 266:23 267:13,25 270:2 timekeeping 124:13 times 153:21 185:12 262:8 264:5,14 Timmer 79:14 81:2,12 87:5 87:11 102:20 129:7 160:7 164:2 177:7 216:14 232:5 232:6 243:22 256:2,18 268:6,10 271:5 Timmer0000... 85:16 Timmer0000... 85:17 Timmer0000... 84:19 Timmer0000... 84:20 Timmer0000... 83:7 Timmer0000... 83:8 Timmer0000... 82:17 Timmer0000... 82:24 Timmer0000...
---	---	--	---	--	--

Timmer0000... 81:17	Timmer0007... 83:19	tip 177:17	Tonya 221:21	160:21 218:2	typically 103:21
Timmer0000... 81:17	Timmer0007... 85:25	title 162:13	222:23	220:21 221:9	114:24 117:1
Timmer0001... 85:5	Timmer0007... 85:25	178:6 191:12	top 95:6,19	226:12	117:14 191:8
Timmer0001... 85:5	Timmer0007... 83:21	197:4 215:12	101:6 102:21	244:12 271:4	231:23
Timmer0001... 83:16	Timmer0007... 83:22	228:5	106:12	Trump 112:7	typos 256:9
Timmer0001... 83:16	Timmer0008... 84:14	titled 190:13	132:16	Trump-like 160:1	
Timmer0001... 83:12	Timmer0008... 84:14	197:21 225:1	154:13 156:5	truth 271:9	<u>U</u>
Timmer0001... 83:13	Timmer0008... 84:6	226:10	173:10 191:3	try 90:2 116:12	U.S 200:22
Timmer0001... 86:20	Timmer0008... 84:7	240:12	195:8 196:20	154:22	uh-huh 90:21
Timmer0001... 86:21	Timmer0008... 85:13	titles 178:8	197:14	161:13	90:25 92:5,5
Timmer0002... 85:8	Timmer0008... 85:14	TLAIB 79:7	200:11	176:13	92:8 93:1
Timmer0002... 85:8	Timmer0009... 84:25	today 159:22	206:10	211:17	94:4 95:8
Timmer0002... 83:24	Timmer0009... 85:22	196:10	210:17	234:23	96:5 98:23
Timmer0002... 85:10	Timmer0009... 84:22	242:10 248:3	238:17 250:6	trying 91:1	100:9 101:8
Timmer0002... 85:11	Timmer0009... 84:23	255:1 256:3	250:13	106:1 108:20	102:24
Timmer0002... 84:4	Timmer0009... 82:7	257:4,24	251:21	110:5 116:2	105:17
Timmer0002... 85:19	Timmer0009... 82:14	260:2	254:19	123:3 170:10	106:14,17
Timmer0002... 85:20	Timmer0009... 82:8	told 94:2	total 136:20	183:1 193:1	122:7 126:3
Timmer0003... 82:10	Timmer0010... 81:20	Tom 264:10	touch 244:22	193:2 207:20	126:14 131:6
Timmer0003... 82:5	Timmer0010... 83:4	Toner 79:20	tougher 116:17	215:3 218:8	132:18 133:8
Timmer0003... 82:5	Timmer0010... 83:5	81:3,5 87:10	town 210:19	224:10	134:17 136:4
Timmer0003... 83:10	Timmer0010... 82:21	88:17,21	towns 97:16	227:10 255:4	136:22 137:1
Timmer0004... 81:13	Timmer0010... 82:22	102:25 118:3	Township	261:18	137:17
Timmer0004... 81:13	Timmer0010... 81:25	135:10,12,16	95:10,14	turn 88:7,21	139:19 147:8
Timmer0005... 86:15	Timmer0011... 86:4	135:19,24	104:22	90:17 100:13	148:6 150:4
Timmer0005... 86:17	Timmer0011... 86:5	146:23	191:23 229:3	101:5 102:1	150:22
Timmer0005... 86:18	Timmer0011... 86:13	151:17 159:3	townships 96:2	119:11 122:2	151:14 153:8
Timmer0006... 84:16	Timmer0011... 86:9	160:7 162:24	96:14 97:6	148:4,24	153:8,22
Timmer0006... 84:17	Timmer0011... 86:10	163:13	169:17,19,22	154:10	154:5,20
Timmer0006... 82:12	Timmer0011... 84:11	164:20 168:3	169:23	160:24	156:16
Timmer0007... 81:15	Timmer417 154:10	173:5 174:23	194:14	turning 240:5	158:11 165:6
		177:1,7	228:17 237:1	tweaked 183:5	165:17,22
		179:4,7	259:13	tweaking	167:21
		180:12	260:20	128:20 145:1	168:24 174:1
		182:10	track 180:23	tweaks 140:12	175:17
		184:24	tracked 114:17	140:14 145:4	177:25 194:1
		187:16 190:6	184:13	two 92:14	196:18 197:2
		196:16	tracks 253:3	94:10 99:10	198:10 207:2
		197:19	traction 158:17	131:4 146:4	208:8 209:21
		198:22 202:1	trade 161:8	149:4 151:6	210:2 212:1
		205:16,25	214:15,17	161:24	212:3 217:5
		211:11	215:23 216:3	165:15 168:3	218:18
		214:11 216:2	traditional	171:9 175:2	219:17
		217:3 220:25	194:8	175:14 181:4	221:10 223:3
		221:21	transcript	181:11	224:25
		223:22	87:13 256:9	183:12	230:19 254:4
		224:20 226:8	271:3	184:10,11	254:24
		227:6 228:9	translation	185:6,17	ultimate
		230:16 232:3	212:23	187:16,18	125:21
		233:18 235:3	transmission	199:23,24	ultimately
		236:8 239:12	220:4	204:11	104:1 195:24
		240:10 241:9	traveling 115:6	211:13,18	267:19
		242:1,21	Traverse	234:10,15	unable 180:5
		243:14,17,22	165:15	236:13	uncontested
		247:3 249:5	treasurer	239:24	117:6
		249:21	202:23	241:16 247:3	understand
		251:10	treated 270:7	247:4 251:10	91:1 116:2
		252:12	tremendous	252:1 259:7	131:23
		253:19	89:13 261:19	264:6,12	135:18
		255:23 256:2	tried 241:22	265:3,10	159:10
		256:8 268:7	Troy 103:18	267:14 268:1	169:16 188:8
		268:9 269:3	193:18,22	typical 120:4	192:16
		269:14,19	true 106:11	172:9	195:19
		270:5,11	123:23		

200:19	119:8 121:23	161:4 172:3	261:21	weakening	156:17
206:17 207:5	142:23 145:7	180:23	wanting 208:7	244:24	wondering
207:20	149:11	192:25 194:4	wants 203:6	Wednesday	93:3 160:11
208:21 209:8	165:12 178:8	195:20,21	217:7	79:17 87:1	191:4
209:12	263:7 264:5	214:5	Washington	wee 248:20	Woods 227:22
212:23 213:1	varying 108:5	votes 92:11,13	79:16 80:8	week 97:18	word 96:6
220:7 233:21	verification	93:7 95:13	80:12 131:11	105:23	102:9 123:25
244:23	137:15	111:16	166:23 169:7	108:14	130:2 166:8
understanding	verify 137:18	117:18 161:4	Washtenaw	117:12	239:9
104:16	229:25	167:22	169:19	127:16	words 173:18
110:18	versa 117:5	184:13	wasn't 103:7	152:15	222:25
143:19	version 190:14	187:10	112:23	164:14,14	work 96:7
178:21	211:19	218:10	155:19 167:2	256:3 258:11	119:22,24
192:23	227:14	234:18	171:20	266:15	120:25
248:25	232:11,13	240:21 257:6	201:21 209:3	weeks 185:6	121:17 122:4
249:16	236:14,15	257:8,8	223:6 243:2	185:17,22	123:22 124:2
263:13	237:4,13,18	260:7	260:22	went 117:10	127:15
understood	246:16	voting 92:10	262:12	135:3 154:21	128:16
190:3 194:5	versions	100:8,21	water 150:3,9	weren't 118:21	130:15 136:2
248:6 255:8	134:16 151:7	106:24 107:5	150:13	136:16	138:9 141:21
unfamiliar	212:8	113:7 117:17	227:25 228:1	157:12	141:24 142:9
174:9	versus 88:25	161:9,10	way 97:1 103:4	164:11	142:11
UNITED 79:1	97:16 104:21	192:21 207:6	103:25	170:11	147:13,16
unnecessary	123:5 246:11	209:22	109:17	193:15 202:2	148:7,21
229:2	viable 116:18	235:12	111:16	218:2 257:22	149:5 151:24
unrelated	vice 117:5	241:17 243:5	116:14,16	West 80:3	152:4,14,16
128:11	view 96:8	260:11	138:22	169:4 199:14	153:24
unsolicited	101:20 113:9	265:24 266:4	141:17	206:14,21	154:21 158:7
103:20 197:8	113:15 115:1	266:19	155:22	Westland	166:25
241:12	165:23 172:6	voting-age	161:11	197:1,6,12,18	177:22 179:2
Update 163:18	172:9 223:6	89:21	168:19	Wexford	190:6 202:20
updated 151:6	223:11	vu 152:19	169:25 172:8	207:14	205:18
upend 204:2	viewed 187:2	vulnerable	175:25 190:6	wide 159:24	211:16
upending	196:7	186:3 187:8	190:8 195:13	160:1 230:2	217:25
204:14	viewing 183:18	187:9	195:18	230:3,4,6	218:23 220:8
upends 204:8	views 103:8,11		204:21,22	wife 216:15	269:15,21
upsell 261:18	106:8 117:19	W	205:3 218:9	WILLIAM 79:4	worked 142:13
Upton 226:1,2	176:14	W 79:6	218:25	willing 117:2	150:18 187:4
226:3	Village 229:25	W-Bloom	219:22	win 158:15	202:19,21
use 94:14,16	violate 91:22	206:16	221:13 224:6	Windquest	214:2
94:18 95:2	96:21	wait 211:13	224:11	142:10,13,18	working
101:17 102:7	virtually	261:15	227:17,20	wireless	137:22
102:9 158:3	189:21	waiving 270:5	234:1 236:20	214:14 215:3	188:11
161:13 183:5	vote 111:14	Walberg 169:6	239:19 253:2	215:17	190:20
233:25	113:19 116:5	169:13	256:6 265:6	wished 242:18	216:19 218:4
248:21 258:1	126:12	170:22	Wayne 92:3	wishes 194:6	248:10
useful 114:14	143:18,20	195:10,25	199:13 200:2	withdrawn	works 142:10
uses 91:18	158:13 181:9	242:13	200:5 233:21	250:15	worried 222:17
266:15	189:4 220:8	walk 235:24	233:25 234:8	witness 81:2	worse 213:4,15
utilized 92:17	234:1 235:18	walks 191:13	237:22 266:8	87:6 102:21	worth 223:10
114:9	235:21	want 88:7	ways 115:11	102:24	wouldn't 91:5
	voted 112:7	102:9 115:13	213:2	146:21 179:5	115:2 125:3
V	113:16 139:5	135:14,18	we'll 103:16	197:17	125:20 168:7
v- 79:9	172:25	143:20	112:13 206:7	205:20	183:23
V1 189:12	180:23	166:14 177:7	we're 89:9	256:13	207:20 208:1
V2 189:17,22	186:14 205:7	193:7 224:20	123:15 135:1	Women 79:3	208:15
valuable	257:11,12	243:22 261:5	238:5 243:6	111:5	238:19
155:13,14,22	264:8,11	wanted 103:6	269:25	won 213:5,16	wrangling
VanDyke	voters 79:3	104:17	we've 117:1	214:4	210:13
219:22	88:23 105:8	133:15	135:12 177:9	wonder 160:7	wrap 229:18
VAP 243:3	107:8,9	186:20 197:6	204:3,8	wondered	wraps 191:22
variety 114:17	111:5 112:2	207:16	205:8 217:9	129:17	254:21,25
261:19	114:14 116:4	221:17	264:12 265:9	wonderful	Wright 80:7,11
various 93:23	116:7,15	226:22	270:2	152:17	146:9,24

147:23 185:6 185:8 248:9 256:19 257:1 258:13 wrinkle 255:10 write 133:6 134:15 157:5 158:12 169:4 177:18,20 185:4 190:14 194:2 208:9 211:24 213:2 221:25 226:1 238:11,21 254:2,19 writes 192:13 193:17 200:24 203:5 207:3 219:21 222:4 238:20 248:20 writing 141:14 201:18 wrong 120:7 144:21 219:12 wrongly 159:12 wrote 141:23 175:10 203:11 204:2 208:17 209:7 213:13,14 217:6 219:9 223:4,14 233:24 238:9 238:12 239:18,25 240:5 242:11 244:21 250:6 250:13 251:5 252:7 <hr/> X <hr/> <hr/> Y <hr/> yeah 98:9 103:19 104:20 110:21 111:12 118:20 122:10 129:17 131:13 132:7 133:1 141:18 144:18 151:12 153:5 160:3 161:21 170:10 174:13 177:1 184:4 190:11 192:12 195:17,17	200:11 206:6 219:12 238:12 248:16 253:10 269:24 year 94:11,21 111:15 119:25 139:7 204:20 246:14 years 113:4 117:8 170:2 177:22 178:8 196:11 214:7 262:6 yesterday's 211:19 Yogi 152:18 <hr/> Z <hr/> zero 189:21 226:24 ZIP 253:9 <hr/> o <hr/> 08R 167:20 09 122:6 <hr/> 1 <hr/> 1 119:12 124:6 124:22 148:19 149:4 152:17 165:15 196:20 199:12 209:19 238:16 1.5 132:17 177:22 209:20 1.75 131:2 1.8 156:4 1/24/11 81:22 1:00 205:18 1:39 205:22 10 101:6 103:4 109:14 126:18 133:21 139:25 158:10 160:22 172:14 200:21 10-4 200:18 10:21 135:22 10:37 135:23 103.5 124:4 1050 198:6 1052 198:6 1053 198:6 1089 167:19	10th 237:3 11 98:7 102:1 103:18 105:14,25 106:5 124:23 124:24,25 125:15 126:19 139:17,23 145:8 150:2 171:23,25 190:12 192:8 193:24 197:18 233:5 235:8,25 11:09 223:15 11:44 177:3 118 81:9 11th 189:23 193:1 238:1 12 106:12,19 12/22/10 81:12,15 12:03 177:4 12:52 205:22 13 100:23 106:23 125:13,24 129:1 134:15 135:19 145:3 171:4,5,5,14 231:22 233:12 251:16 260:11 13th 238:1 265:4 266:13 267:5,14 14 89:13 90:5 90:12 99:20 100:24 106:23 112:9 112:19 125:13,24 129:2 135:25 145:3 161:1 162:2 171:6 171:7,8 198:8 233:14 233:19 260:12 141 261:6 142 88:12 90:17 143 81:9 86:22 118:1,3 119:12 179:1 144 81:11 151:15,17 152:9 261:3 261:7,8 262:10 145 81:14 159:1,3	146 81:16 160:5 147 81:18 162:22,24 148 81:21 163:11,13 149 81:23 164:18,20 14th 229:9,17 229:21 238:1 265:5 266:13 266:13 267:4 267:14 15 89:9,12 90:5 99:20 136:21 150:20 160:25 162:2 226:23 238:12 241:10 249:25 150 82:3 168:1 168:3 150,000 89:21 89:23 152:15 151 81:11 82:6 173:3,6 152 82:9 174:21,23 153 82:11 177:5,9 179:3 154 82:13 180:10,12 155 82:15 182:8,10 156 82:18 184:22,24 157 82:20 187:14,16 158 82:23 190:4,7 159 81:14 83:3 196:14,16 197:21 15th 238:9 16 139:25 200:8 206:5 210:18,21 219:23 239:14 240:12 242:2 242:12 160 81:16 83:6 198:20,24 161 83:9 201:24 202:8 162 81:18 83:11 205:23 206:3 207:1 219:9,11 163 81:21 83:14 211:9 211:11	164 81:23 83:17 214:9 214:12 269:6 269:13 165 83:20 217:1,4 219:12 166 83:23 220:23,25 167 84:3 221:19,25 168 82:3 84:5 223:20 169 84:8 224:18,23 225:25 17 140:18 141:12 144:19,23 202:10 211:12 17,000 199:12 199:13 200:6 170 84:10 226:6,8 17000 80:3 171 84:12 227:4 172 84:15 228:7,9 173 82:6 84:18 230:14,18 174 82:9 84:21 232:1,3 175 84:24 233:16,18 176 85:3 235:1 235:3 177 82:11 85:6 236:6,8 178 85:9 239:10,12 179 85:12 240:8,11 17th 140:24 141:1 18 142:3 180 82:13 85:15 241:7 181 85:18 241:24 242:5 182 82:15 85:21 242:19 242:21 183 85:23 243:20 244:5 184 82:18 86:3 247:1,3 185 86:6 249:3 249:5 186 86:8 249:19,21,25 187 82:20 86:11 251:8	251:11 188 86:14 252:10 189 86:16 252:10,16 18th 243:25 19 239:20 190 82:23 86:19,22 253:17,20 196 83:3 198 83:6 1982 97:4,8 234:23 238:2 1990s 202:24 1991 265:8 1992 265:21 1st 118:8 <hr/> 2 <hr/> 2 128:5 165:18 174:19 192:7 196:21 211:25 217:4 223:23 224:23 229:11 238:10 239:14 2,000 225:11 225:11 2.1 156:4 2/21/11 81:24 2:17-cv-141... 79:9 2:24 213:2 2:45 206:9 2:46 243:18 20 92:3,6 97:23 113:3 247:4 248:16 20-year 265:15 200 79:16 80:8 80:12 2000 213:5,16 214:5 2001 88:25 89:9 99:21 99:24 100:12 152:21 153:7 153:11 157:2 161:1 211:23 262:3 265:8 2001-enacted 89:17 20011 233:19 2002 180:20 2004 231:2 2006 198:8 245:14 2008 167:23 186:14 198:8 202:3 2009 120:23,25
--	---	--	--	--	---

121:24	2014 111:20	27th 181:17	80:9,13	6/28/11 86:7
122:19 262:9	155:11	28 147:20	4th 149:10	6/3/11 84:13
201 83:9	2016 111:23	249:6	183:3 227:23	6/8/11 84:16
2010 99:24	112:3,16,21	28th 147:25		6/9/11 84:19
104:2 122:2	112:23,24	29 79:17 87:1	5	6:51 193:24
122:4,8,10,12	2018 79:17	271:5	5 100:5 109:14	60 112:11
122:20 123:1	87:1 155:12	2nd 80:3 126:1	123:16 168:5	61 183:12
123:5,5,10	271:6,15	126:7 182:12	168:20 177:8	63 183:12
154:2 156:7	2019 271:22		251:13,18	66 193:17
159:5 180:20	2020 155:12	3	252:2 254:14	6th 126:8
198:8 222:11	205 83:11	3 119:21 128:8	5-4-5 248:22	128:25 225:9
245:14	21 122:6	191:18	248:25	7
2011 87:22	143:10	211:25	5,000 215:18	7 119:20
88:24 89:4	164:22 247:5	3,000 180:16	5/11/11 82:21	120:17,19
90:12 91:4	211 83:14	3/23/11 82:10	82:24	129:7 154:11
96:20 107:21	214 83:17	3/5/11 82:4	5/12/11 83:7	7.5 143:10
108:3,14,14	215 79:16 80:8	3/8/11 82:7	5/13/11 83:4	7.5-hour 136:2
108:18,19	80:12	3:03 243:19	5/16/11 83:7	7/13/11 86:12
109:2,25	217 83:20	3:27 255:25	83:12	7/14/11 86:9
111:6,8	22 143:25	3:30 256:1	5/17/11 83:10	7/15/11 86:9
113:24	144:14,25	3:50 270:12	83:15,18,21	7/22/11 86:12
114:19	148:4 159:5	30 92:25 117:8	5/19/11 83:21	7/30/11 86:20
117:10,23	175:16	124:6 253:21	5/2/11 82:16	795 217:4
118:5,8	180:13	300 79:21	5/24/11 83:24	7th 227:19
119:2,20,22	181:16	300,000	5/3/11 82:16	
122:6 123:23	220 83:23	152:11	5/9/11 82:19	8
124:11	221 84:3	31 92:25	50 265:25	8 95:7 131:2
135:25 139:6	223 84:5	317)237-0300	517)371-1730	173:8 228:10
141:21	224 84:8	79:22	80:9	8.75 136:20
142:11 143:4	226 84:10	32 92:25	517)487-4762	8/4/11 86:15
143:6 147:3	227 84:12	36 92:25 95:6	80:13	8/6/11 86:20
149:20	228 84:15	95:19	54.76 231:1	8:38 200:8
151:24	22nd 182:3	3827 120:19	5th 251:23	8:56 248:16
152:21 154:2	251:25 252:2	3833 123:16		83 160:10
157:3 158:7	23 90:18	3877 148:4	6	87 81:3
161:1 163:15	145:20	3880 148:18	6 102:22	88 160:10
164:22 168:5	174:25 175:4	39 95:22	105:19	8th 230:21
173:8 174:25	230 84:18	3rd 243:23	128:19 157:5	
179:13 182:2	232 84:21	244:25 246:5	168:5 253:21	9
182:12	233 84:24	246:7,10,11	271:15,22	9 95:7 100:14
184:25 188:2	235 85:3	246:17	6,000 104:20	100:20
192:8 198:23	236 85:6		104:21,21	125:13,24
202:10	239 85:9	4	6,000-and-s...	150:2 184:25
204:24 206:1	23rd 144:23	4 98:20,25	104:14	185:19 231:8
211:1,12	24 92:1 163:15	99:12,13,17	6.25 134:23	232:18
214:18	221:2	99:18 156:14	6.5 146:8	9-5 217:10,16
215:23	240 85:12	165:15	6/13/11 84:19	218:5,12,22
216:17,18	241 85:15,18	200:21	84:22 85:4	9:05 79:18
221:2 223:23	242 85:21	252:13	6/14/11 84:25	87:3
224:24	243 85:23	4,350 119:17	6/15/11 85:4	9:06 88:19
228:10	247 86:3	4/22/11 82:14	85:7,16	9:08 88:20
239:14	248)483-5000	4/5/11 82:12	6/16/11 85:10	9:19 186:22
243:25 247:5	80:4	4:09 210:1	85:13,19	90s 96:18
248:6 249:6	249 86:6,8	4:18 192:8	6/17/10 83:18	97:10
252:14 262:1	25 92:24	41 98:19	6/17/11 85:19	92 265:8
262:4,5	251 86:11	418 156:14	6/18/11 85:24	94-171 213:22
263:22 265:9	252 86:14,16	419 158:9	6/2/11 84:4,6	946 232:19
265:14,21	253 86:19	43 100:13	84:9,11 85:7	995 98:1
2011-enacted	256 81:4	101:6	85:10	9th 185:17
89:16	26 92:24 93:2	44 101:7 102:2	6/20/11 86:4	186:22
2012 111:13,17	268 81:5	45 106:13	6/21 143:12,13	227:11,15
119:13	27 146:8 147:7	46204 79:22	6/21/11 85:22	237:3 241:11
217:10,16	163:21	48075 80:4	86:4	
218:6	2700 79:21	48933-1888	6/22/11 85:24	